# Calendar No. 261

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## DAIRY AND TOBACCO ADJUSTMENT ACT OF 1983

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JUNE 23 (legislative day, JUNE 20), 1983.—Ordered to be printed

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Mr. HELMS, from the Committee of Agriculture, Nutrition, and Forestry, submitted the following

# REPORT

together with

## MINORITY AND ADDITIONAL VIEWS

[To accompany S. 1529]

The Committee on Agriculture, Nutrition, and Forestry, reports an original bill (S. 1529) to stabilize a temporary imbalance in the supply and demand for dairy products, to enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion, to adjust the support levels for the 1983 and subsequent crops of tobacco, to make modifications in the tobacco production adjustment program, and for other purposes, and recommends that the bill do pass.

### SUMMARY OF MAJOR PROVISIONS

### TITLE I—DAIRY

#### SUBTITLE A—DAIRY COMPLIANCE PROGRAM

*Price supports*

The bill would—

A. Establish the level of price support for milk at $13.10 per hundredweight for the period beginning with the date of enactment of this provision and ending on September 30, 1983;



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B. Establish the level of price support for milk at $12.60 per hundredweight for the period beginning October 1, 1983, and ending September 30, 1985, except that—

(1) if on January 1, 1985, the Secretary estimates that Commodity Credit Corporation purchases for the next year will exceed 6 billion pounds milk equivalent, the Secretary is required to reduce the support price by 50 cents per hundredweight; and

(2) if on July 1, 1985, the Secretary estimates that CCC purchases for the next year will exceed 5 billion pounds milk equivalent, the Secretary is required to reduce the support price for milk in effect on that date by 50 cents per hundredweight; or

(3) if on July 1, 1985, the Secretary estimates that CCC purchases for the next year will be 5 billion pounds or less, and determines it is necessary in order to assure an adequate supply of milk to meet current needs, the Secretary is required to increase the support price by not less than 50 cents per hundredweight; and

C. Provide that the price of milk be supported through the purchase of milk and milk products.

*Milk price reduction*

To encourage producers to adjust their milk production to levels consistent with national demand, the bill would require the Secretary to provide for a 50-cent per hundredweight reduction in the price received by producers for all milk marketed commercially during the period beginning with the date of enactment of this provision and ending on December 31, 1984. The funds generated by this reduction in the price of milk would be collected and remitted to the Commodity Credit Corporation by milk handlers in a manner and at such times as specified by the Secretary. In the case of a producer who sells directly to consumers, the deduction from the price of milk sold must be remitted directly to the CCC by the producer.

Proceeds from the deduction must be credited by CCC to the Dairy Stabilization Settlement Fund for use in making diversion payments to producers. Any deduction funds in excess of the diversion payments during a fiscal year will be credited against the cost of the price support program; any shortfall in the amount needed to make diversion payments will come from CCC funds.

*Diversion program*

Beginning no later than October 1, 1983, the bill would require the Secretary to implement a paid diversion program which terminates on December 31, 1984. The major features of the diversion program are as follows:

A. Any producer may participate in the program by entering into a contract with the Secretary to reduce milk production by an amount specified by the producer ranging between 5 percent and 30 percent of the producer's base period production.

B. The base period (marketing history) will be, at the producer's election, the producer's milk production marketed for commercial use during the period beginning in 1981 and ending in

1982 that corresponds to the months of the diversion contract, or the average milk production marketed for commercial use during the period beginning in 1980 and ending in 1981, and the period beginning in 1981 and ending in 1982, that correspond to the months of the diversion contract.

C. The payment rate to producers for milk production reduced below the base period production will be $10 per hundredweight.

D. Idled or reduced milk production capacity in participating producers' facilities cannot be used by anyone for the production of milk.

E. Dairy cattle that could have been used for the production of milk may not be transferred to another person for milk production after May 23, 1983, unless the transfer is to a person who is under a diversion contract or unless the Secretary determines that the transfer does not impair the program.

F. No diversion payments will be made to producers that fail to meet their contract reduction level by an amount of more than 3 percent of their base period production, and no payments will be made for reduced milk production exceeding the contract level by an amount of more than 3 percent of the applicable base period production.

G. The Secretary is authorized to modify milk diversion contracts, if he determines that milk production will be excessively reduced in the United States, by lowering the reduction percentage for producers on a pro rata basis or by using such other basis as the Secretary determines to be equitable when necessary to ensure an adequate supply of milk to meet the needs of a particular area.

H. No transfer of marketing history will be allowed except by reason of death, gift, or transfer to a member of the producer's family and then only if the entire production facility is transferred.

I. For any producer who commenced marketing of milk after December 31, 1982, no marketing history will be established, except as provided in item H above.

J. Partial diversion payments will be made on a quarterly basis to producers that can establish a net reduction in their marketings of milk with final settlement to be made following the end of the program (i.e., after the contract period ends). Any overpayments to producers must be paid back at the end of the program, and in any case where a producer fails to comply with the contract all payments must be repaid plus 12 percent interest.

K. Diversion contracts are assignable only under limited circumstances involving transfer of a producer's entire production facility and dairy herd to a person eligible for transfer of another producer's base as described in item H.

L. If the Secretary should be prohibited by any court from implementing the mandatory 50-cent per hundredweight price reduction in all milk marketed commercially, the Secretary is required to immediately suspend making any diversion payments for the duration of the court order.

M. All dairy producers and milk handlers that are required to remit dairy price reduction payments to the CCC must maintain records as specified by the Secretary.

N. The Secretary is empowered to conduct investigations as necessary to carry out the program.

O. The Federal district courts are granted jurisdiction to enforce the program.

P. Penalties may be assessed by the Secretary for failure to make the price reduction and remit he resultant funds to CCC, for failure to reduce production as required by a contract, and for any knowing violation of the provisions of the bill or any regulations relating to this program. Penalties are subject to court review.

Q. The Secretary may use, on a reimbursable basis, Federal or State milk market administrators or State and county ASCS committees to carry out this program.

R. The diversion program and reduction in price to fund the program would apply only to the 48 contiguous States in the continental United States.

SUBTITLE B—DAIRY PROMOTION PROGRAM

The bill would establish a national program to finance dairy product promotion and research, and dairy nutrition education.

The program would be financed by a mandatory nonrefundable 15-cent per hundredweight assessment on producers for all milk marketed for commercial use, with credit of up to 10 cents per hundredweight given to producers or cooperatives for contributions to qualified State or regional dairy product promotion or nutrition education programs.

Within 30 days after receiving a proposal submitted by any eligible certified organization for the issuance of a promotion order, the Secretary is required to publish the proposal for public comment (hearing). After notice and opportunity for public comment are given, the Secretary is required to issue a final order, which shall become effective no later than 90 days following publication of the proposal.

In addition, other major provisions of the promotion program established by the bill would include:

A. Establishment of a National Dairy Promotion and Research Board composed of not less than 36 producer members, appointed by the Secretary from producer nominations, to administer the program and oversee the expenditure of funds to promote the use of milk and dairy products, for research, and for nutrition eduction.

B. Requirement for milk handlers to collect the 15-cent per hundredweight deduction from producers and to remit the funds to the Board. Also required is the maintenance of records and filing of reports as provided for in the order.

C. Continuation of the program after September 30, 1985, would be contingent upon approval of the order by at least one-half of the producers voting in a referendum which shall be conducted within the 60-day period preceding September 30, 1985. If the order is not approved by a majority of the produc-

ers, the program is to be discontinued within 6 months after the referendum.

D. For purposes of voting in the referendum, approval by a milk marketing cooperative of producers would be considered as the approval of member producers, except that if a cooperative elects to do so on behalf of its members, it must notify its members at least 30 days prior to the referendum and provide them an opportunity to vote as individuals.

E. Authority for the Secretary to conduct a referendum at any time following September 30, 1985, to determine if producers favor continuation of the order. In any case in which at least 10 percent of the dairy producers subject to the order so request, the Secretary is required to conduct a referendum on the order.

F. Requirement that the Secretary be reimbursed from assessments collected for any expenses incurred for the conduct of any referedum, except for the salaries of government employees and for any other expenses incurred under the program after an order has been issued.

G. Authority for the Secretary to investigate violations of the program and to impose civil penalties for willful violations of any order. The district courts are vested with jurisdiction to enforce any orders or regulations relating to the program.

The bill would also authorize to be appropriated such sums as necessary to carry out the provisions of the promotion program, except that no appropriated funds may be used for the payment of expenses incurred by the Board in administering the promotion order.

## SUBTITLE C—DAIRY REPORTS AND COTTON

### *Reports*

The bill requires that the following reports be prepared and submitted to the House and Senate agriculture committees:

A. By December 31, 1984, a report on recommended changes in the parity formula for milk to make it more consistent with modern production methods.

B. By July 1 of each year, an annual report on activities under the promotion order and accounting for all funds received and disbursed.

C. By Aprill 15, 1985, a report on the effectiveness of the paid diversion program.

D. By July 1, 1985, a report on the impact of applying nationally, standards similar to the California standards for fluid milk as it relates to consumption trends, consumer prices, enforcement of minimum standards, uniformity of product quality, lower CCC purchases, multiple component pricing of producer milk, and nutritional augmentation.

### *Cotton*

To assure that the Secretary of Agriculture has an adequate supply of upland cotton to carry out the 1983 payment-in-kind (PIK) program for upland cotton, the bill would require the Secretary to solicit bids for the sale of cotton to the CCC, without limita-

tion, on cotton pledged by producers as security for nonrecourse loans under the support program for cotton. Until sufficient cotton is acquired to carry out the 1983 program, or during a reasonable bidding period of not less than 2 weeks, the Secretary cannot reject any bid submitted by a cotton producer unless the bid exceeds the highest bid amount accepted by the Secretary under the same bidding procedure for feed grains. The Secretary is also required to give any producer who has previously submitted a bid the opportunity to nullify such bid if the producer agrees to submit another bid under the terms of this section of the bill.

## Title II—Tobacco

Title II of the bill would make a number of changes in the price support and the acreage allotment and marketing quota program for certain kinds of tobacco. The bill would—

A. Freeze the price support level for the 1983 and 1984 crops of Flue-cured tobacco at the 1982 support level.

B. Freeze the price support level for the 1985 crop of Flue-cured tobacco at the 1982 support level if the 1985 support level would not be more than 5 percent greater than the 1984 support level as determined under the regular formula (without any adjustment). If the 1985 support level would be more than 5 percent greater than the 1984 level, as determined under the regular formula (without any adjustment), the price support level for the 1985 crop would be determined under the current provisions of law. In that case, the actual support level for 1985 would be the level for the preceding crop, plus or minus the difference between the 1985 and 1984 support levels as determined under current law.

C. Freeze the price support level for the 1983 crop of Burley tobacco at the 1982 support level (in conformity with the freeze for Flue-cured tobacco).

D. Authorize the Secretary of Agriculture for the 1984 and 1985 crops of Burley tobacco, to establish price support levels for each of such crops at levels that will not narrow the normal price support differential between Flue-cured and Burley tobacco. Before establishing such levels the Secretary must give notice of the proposed levels, receive public comment on the notice, and take into consideration changes in the costs of producing Burley tobacco, and such other relevant factors as the Secretary determines appropriate.

E. Establish price support levels for the 1983 through 1985 crops of fire-cured, sun-cured, dark air-cured, and cigar filler and binder tobaccos under the same criteria as provided for Burley tobacco.

F. Delete the so-called "double assessment" that requires each owner and operator of a farm who lease their Flue-cured tobacco allotment or quota to contribute to the no net cost tobacco fund.

G. Specify that use by an association (through which price support is made available to producers) of moneys in the no net cost tobacco fund administered by such association for the purposes of reducing the association's outstanding indebtedness

to the Commodity Credit Corporation (CCC) for 1982 and subsequent crops of tobacco and making loan advances to producers is an authorized use, and use of such moneys for other purposes that would be mutually beneficial to producers and CCC would be considered an appropriate use of such funds if approved by the Secretary.

H. Permit an association carrying out the price support program for Flue-cured tobacco to request the Secretary of Agriculture to establish a no net cost tobacco account in CCC to which producer assessments would be paid to assure a no net cost program in lieu of a no net cost tobacco fund in the association. (All other associations except the Flue-cured association have this option.)

I. Increase from 1 percent to 3 percent the portion of the national acreage allotment for Flu-cured tobacco that may be set aside as a reserve for new growers, and permit the yield for new tobacco farms to be established on the basis of productivity data for the farm and yields for similar farms.

J. Change the date for announcing the national marketing quota and related determinations for Flue-cured tobacco from December 1 to December 15. The announcement date for other tobacco under an acreage-poundage program would be changed from February 1 to March 1.

K. Require the Secretary to determine the acreage planted to Flu-cured tobacco on each farm.

L. Eliminate lease and transfer of Flue-cured tobacco allotment and quota off the farm to which it is assigned beginning with the 1987 crop except that lease and transfer would be permitted until 1990 for quota of 3,000 pounds or less. During the interim period, lease and transfer would be permitted only if both parties to the lease file a copy of the lease and a written statement with the county committee where the farms are located certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form, prior to the marketing of the tobacco produced under the lease. In the case of a knowing false statement in the certification by the lessee, the lease agreement for purposes of the marketing quota program would be considered null and void. In the case of a knowing false statement by the lessor, the Flue-cured tobacco allottment and a quota established for the lessor's farm for the next year would be proportionately reduced.

M. Beginning January 1, 1986, require forfeiture of any Flue-cured allottment or quota assigned to any farm on which Flue-cured tobacco has not been planted or considered planted during at least 2 out of 3 years of the most recent 3-year period. Forfeited allotment or quota would be reallocated by the county committee for use by active Flue-cured tobacco producers in the county involved.

N. Reduce the amount of Burley tobacco that may be leased and transferred to any farm from 30,000 pounds to 15,000 pounds.

O. Prohibit the filing of any lease of any Burley tobacco quota after July 1 of the crop year specified in the lease.

P. Modify the prohibition against the lease and transfer of Burley quotas across county lines so as to permit the Secretary of Agriculture to combine as one farm tracts of land in contiguous counties that are owned and operated by a producer as a single unit.

Q. Extend from December 1, 1983, to December 1, 1984, the date by which non-farming entities must sell their Flue-cured and Burley quotas, and make it clear that the mandatory sale provision does not apply to farms where the land is being used for agricultural purposes.

R. Increase from 5 percent to 15 percent the downward adjustment the Secretary of Agriculture may make in the quota for Burley tobacco when the Secretary determines that such an adjustment is desirable for the purposes of effecting an orderly reduction of supplies.

S. Require the Secretary of Agriculture—whenever a freeze or a downward adjustment of more than 35 percent is imposed with respect to the price support level for Burley tobacco or the CCC stocks of Burley tobacco are in excess of 20 percent of the basic quota for Burley tobacco—to review, in accordance with section 22 of the Agricultural Adjustment Act, whether imports are interferring with the domestic price support program, and, where appropriate, recommend to the President a section 22 investigation.

## Purpose and Need for Legislation

### Title I—Dairy

#### BACKGROUND

(a)

Raw milk is produced on 311,800 farms throughout the United States where 11 million cows are milked usually two times a day. The milk is cooled and held in stainless steel tanks. It is picked up at the farm by tank trucks every other day and moved to a fluid milk bottling plant or a dairy product manufacturing plant.

Milk is handled under sanitary conditions to guard against bacterial contamination. The milk is moved quickly, for it is a highly perishable commodity which must be marketed promptly as fluid milk or manufactured into storable dairy products such as cheese, butter, and nonfat dry milk. During 1982, nearly 49.4 billion pounds of raw milk was processed (pasteurized, homogenized, and packaged) by about 1,000 fluid milk bottling plants. Meanwhile, about 80.6 billion pounds of raw milk was transformed into various dairy products by nearly 2,100 manufacturing plants.

Milk production and consumption fluctuate seasonally. Production generally increases during spring and early summer and decreases in the fall while consumption is at its peak in the fall and winter. If production capacity is maintained to meet the level of demand in October, excess production will flood the market in May.

There are two quality levels of raw milk produced in the United States—fluid grade (grade A) and manufacturing grade (grade B).

Fluid grade milk must meet strict sanitary standards and is the only grade that can be bottled. Manufacturing grade milk, on the other hand, may meet somewhat lower standards, which are acceptable because the milk undergoes processing at high temperatures for a longer period of time than in pasteurization of fluid milk.

More farms are upgrading their dairy operations in order to meet the higher sanitary standards of fluid grade milk. Of all milk produced during 1982, 85 percent was fluid grade, compared with 61 percent in 1950. Because of this, more grade A milk is used for manufacturing dairy products than grade B.

(b)

The dairy industry in the United States is an important element in our total agricultural sector. Cash receipts from dairy products in 1982 were nearly $18.3 billion. Consumer expenditures for milk and dairy products accounted for annual sales of $40.3 billion in 1981. Dairy products make up about 12.2 percent of the total expenditures for all food.

The number of farms reporting dairy cows has decreased from 1.8 million in 1959 to about 312,000 in 1980. The rapid disappearance of small herds has been particularly noticeable, while the number of large farms has risen. Thus, dairy farms with 30 or more cows are producing an increasing share of the total milk produced.

The shift away from small dairy farms has been the reult of a 2½-fold increase in labor productivity since 1967. Although this increase is due, in part, to smaller, inefficient farms going out of business, labor productivity has also been raised by substantial inputs of capital and energy, and increased milk production per cow. Through improved breeding, feeding, and management, average milk output per cow has increased from about 4,800 pounds in 1945 to 12,316 pounds in 1982. Meanwhile, cow numbers declined from about 25 million to 11 million during the same time period. Much of this increased output per cow is related to increased feeding of grains and other concentrate feeds (Table 1).

TABLE 1.—MILK SUPPLY AND UTILIZATION, SELECTED YEARS

| Year | Billion pounds milk equivalent | | | | | | | | Number of milk cows (thousands) | Milk per cow (pounds) | Price [2] | Gross cash receipt (millions) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Supply | | | | Utilization | | | | | | | |
| | Production | Beginning stocks | Imports | Total | Domestic | | Exports [1] | Ending stocks | | | | |
| | | | | | Food | Feed | | | | | | |
| 1965 | 124.2 | 5.3 | 0.9 | 130.4 | 121.4 | 2.1 | 2.4 | 4.5 | 14,953 | 8,305 | $4.23 | $5,038 |
| 1970 | 117.0 | [3] 5.2 | 1.9 | 124.1 | 115.6 | 1.7 | 1.0 | 5.8 | 12,000 | 9,751 | 5.71 | 6,525 |
| 1972 | 120.0 | 5.1 | 1.7 | 126.8 | 117.6 | 1.6 | 2.1 | 5.5 | 11,700 | 10,259 | 6.07 | 7,135 |
| 1976 | 120.2 | 3.8 | 1.9 | 125.9 | 117.6 | 1.6 | 1.0 | 5.7 | 11,032 | 10,894 | 9.66 | 11,428 |
| 1977 | 122.7 | 5.7 | 2.0 | 130.4 | 119.3 | 1.5 | 1.0 | 8.6 | 10,945 | 11,206 | 9.72 | 11,752 |
| 1978 | 121.5 | 8.6 | 2.3 | 132.4 | 121.2 | 1.5 | 1.0 | 8.7 | 10,803 | 11,243 | 10.60 | 12,690 |
| 1979 | 123.4 | 8.7 | 2.3 | 134.4 | 122.4 | 1.4 | 1.0 | 8.6 | 10,743 | 11,488 | 12.00 | 14,659 |
| 1980 | 128.5 | 8.3 | 2.1 | 139.2 | 128.5 | 1.4 | 1.0 | 13.0 | 10,810 | 11,889 | 13.00 | 16,600 |
| 1981 | 133.0 | 10.0 | 2.3 | 148.3 | 124.8 | 1.4 | 3.7 | 18.4 | 10,923 | 12,177 | 13.80 | 18,100 |
| 1982 | 135.8 | 18.4 | 2.4 | 156.6 | 130.6 | 1.4 | 4.5 | 20.1 | 11,026 | 12,310 | 13.60 | 18,300 |

[1] Includes shipments.
[2] Price received by farmers for all milk wholesale (per hundredweight).
[3] Excludes cream and bulk condensed stocks beginning 1970.

Total milk production increased to 125 billion pounds annually in the early 1960's and then declined to about 118 billion pounds annually in the late 1960's and early 1970's (Table 2). Total production leveled off at about 115.5 billion pounds during 1973–1975. It then steadily increased during the period 1976 to the present time. Milk production in 1982, at 135.8 billion pounds was an all time record. Production gains are currently expected for most of 1983, with production now projected to be around 139 billion pounds for the year.

TABLE 2.—MILK PRODUCTION, NUMBER OF MILK COWS, PRODUCTION PER COW, AND AVERAGE MILK PRICE, UNITED STATES, 1960–82

| Year | Milk production (million pounds) | Milk cows on farms (thousands) | Milk production per cow (pounds) | Received by farmers (per hundredweight) [1] |
|---|---|---|---|---|
| 1960 | 123,109 | 17,515 | 7,029 | $4.21 |
| 1961 | 125,707 | 17,243 | 7,290 | 4.22 |
| 1962 | 126,251 | 16,842 | 7,496 | 4.09 |
| 1963 | 125,202 | 16,260 | 7,700 | 4.10 |
| 1964 | 126,967 | 15,677 | 8,099 | 4.15 |
| 1965 | 124,180 | 14,953 | 8,305 | 4.23 |
| 1966 | 119,912 | 14,071 | 8,522 | 4.81 |
| 1967 | 118,732 | 13,415 | 8,851 | 5.02 |
| 1968 | 117,225 | 12,832 | 9,135 | 5.24 |
| 1969 | 116,108 | 12,307 | 9,434 | 5.49 |
| 1970 | 117,007 | 12,000 | 9,751 | 5.71 |
| 1971 | 118,566 | 11,839 | 10,015 | 5.87 |
| 1972 | 120,025 | 11,700 | 10,259 | 6.07 |
| 1973 | 115,491 | 11,413 | 10,119 | 7.14 |
| 1974 | 115,586 | 11,230 | 10,293 | 8.33 |
| 1975 | 115,398 | 11,139 | 10,360 | 8.75 |
| 1976 | 120,180 | 11,032 | 10,894 | 9.66 |
| 1977 | 122,654 | 10,945 | 11,206 | 9.72 |
| 1978 | 121,461 | 10,803 | 11,243 | 10.60 |
| 1979 | 123,411 | 10,743 | 11,488 | 12.00 |
| 1980 | 128,525 | 12,810 | 11,859 | 13.00 |
| 1981 | 133,013 | 10,423 | 12,177 | 13.80 |
| 1982 | 135,795 | 11,026 | 12,316 | 13.60 |

[1] Average price per 100 pounds received by farmers for milk sold to plants and dealers.

During 3 representative years, 1976, 1980, and 1983 about half of the total milk production was produced in the five leading dairy States (Wisconsin, California, New York, Minnesota, and Pennsylvania) while almost two-thirds of the total was produced in the 10 major dairy States (Table 3).

TABLE 3.—LEADING STATES, MILK PRODUCTION, 1976, 1980, AND 1983

| State | 1976 | | 1980 | | 1983 | |
|---|---|---|---|---|---|---|
| | Million pounds | Percent [1] | Million pounds | Percent [1] | Million pounds | Percent [1] |
| Wisconsin | 20,296 | 17 | 22,380 | 17 | 23,230 | 17 |
| California | 11,583 | 10 | 13,577 | 11 | 14,518 | 11 |
| New York | 10,198 | 8 | 10,920 | 9 | 11,147 | 8 |
| Minnesota | 9,239 | 8 | 9,535 | 7 | 10,341 | 8 |
| Pennsylvania | 7,507 | 6 | 8,479 | 7 | 9,264 | 7 |
| Michigan | 4,620 | 4 | 4,970 | 4 | 5,253 | 4 |

TABLE 3.—LEADING STATES, MILK PRODUCTION, 1976, 1980, AND 1983—Continued

| State | 1976 | | 1980 | | 1983 | |
|---|---|---|---|---|---|---|
| | Million pounds | Percent [1] | Million pounds | Percent [1] | Million pounds | Percent [1] |
| Ohio | 4,435 | 4 | 4,310 | 3 | 4,550 | 3 |
| Iowa | 3,954 | 3 | 4,108 | 3 | 4,301 | 3 |
| Texas | 3,309 | 3 | 3,625 | 3 | 3,770 | 3 |
| Missouri | 2,919 | 2 | 2,890 | 2 | 2,905 | 2 |
| Washington | | | 2,942 | 2 | 3,222 | 2 |
| Total (11 States) | 78,060 | 65 | 87,693 | 66 | 92,501 | 68 |
| Total, United States | 120,180 | 100 | 128,523 | 100 | 135,795 | 100 |

[1] Of U.S. total.

(c)

The dairy manufacturing industry, like dairy farming, has undergone substantial structural change. In the past 3 decades, there has been a rapid decline in the number of plants producing dairy products, except those producing Italian cheese. In contrast to the general decline in number of plants, output per plant has trended upward. For example, the average plant production of American cheese was about ½ million pounds in 1950 compared with 6 million pounds in 1982.

The trend has also been toward fewer and larger processing plants in the fluid milk sector. The number of fluid milk plants declined from 6,726 in 1955 to 1,066 in 1980. Meanwhile, the average output per plant increased from 6.5 million pounds per year in 1955 to over 47 million pounds in 1980 (product weight basis).

Regional dairy cooperatives have become increasingly important in the procurement, processing or manufacturing, and distribution of milk and dairy products. Consolidation and merger of cooperatives has enabled them to achieve increased prominence in the marketplace. Their role in procuring, assembling, and coordinating a fluctuating milk supply with a variable demand has increased, and the regional cooperatives have consolidated manufacturing facilities—especially cheese plants.

Per capita civilian consumption of dairy products, on a milk equivalent basis declined from 653 pounds in 1960 to 544 pounds in 1974 and then increased slightly to 559 pounds in 1979 (Table 4). Shifts have occurred in per capita consumption among principal dairy products. Substantial decreases occurred in butter, cream, and plain whole milk between 1960 and 1980. During the same period consumption of low fat milk and cheese increased substantially.

TABLE 4.—PER CAPITA CIVILIAN CONSUMPTION, 1960–81

| Year | All dairy products [1] | Plain, whole milk | Lowfat milks [2] | Butter | Cream | Total cheese |
|---|---|---|---|---|---|---|
| 1960 | 653 | 251 | 20.8 | 7.5 | 8.3 | 8.4 |
| 1961 | 641 | 242 | 22.3 | 7.4 | 8.1 | 8.6 |
| 1962 | 642 | 241 | 24.3 | 7.3 | 7.8 | 9.1 |
| 1963 | 632 | 240 | 26.8 | 6.9 | 7.5 | 9.2 |
| 1964 | 632 | 239 | 29.4 | 6.9 | 7.1 | 9.4 |

TABLE 4.—PER CAPITA CIVILIAN CONSUMPTION, 1960–81—Continued

| Year | All dairy products [1] | Plain, whole milk | Lowfat milks [2] | Butter | Cream | Total cheese |
|---|---|---|---|---|---|---|
| 1965 | 620 | 237 | 31.7 | 6.4 | 6.9 | 9.5 |
| 1966 | 604 | 234 | 33.7 | 5.7 | 6.6 | 9.8 |
| 1967 | 581 | 224 | 37.6 | 5.5 | 5.1 | 10.1 |
| 1968 | 577 | 219 | 42.6 | 5.7 | 5.8 | 10.6 |
| 1969 | 569 | 212 | 47.9 | 5.4 | 5.5 | 10.9 |
| 1970 | 562 | 207 | 51.3 | 5.3 | 5.3 | 11.5 |
| 1971 | 558 | 200 | 56.6 | 5.1 | 5.3 | 12.1 |
| 1972 | 561 | 196 | 62.5 | 4.9 | 5.3 | 13.2 |
| 1973 | 555 | 188 | 67.9 | 4.8 | 5.4 | 13.7 |
| 1974 | 544 | 177 | 70.9 | 4.6 | 5.5 | 14.6 |
| 1975 | 546 | 173 | 77.7 | 4.8 | 5.5 | 14.5 |
| 1976 | 548 | 166 | 82.2 | 4.4 | 5.5 | 15.8 |
| 1977 | 550 | 157 | 87.1 | 4.4 | 5.5 | 16.4 |
| 1978 | 555 | 153 | 89.9 | 4.5 | 5.5 | 17.2 |
| 1979 | 559 | 147 | 92.5 | 4.6 | 5.6 | 17.6 |
| 1980 | 544 | 141 | 96.3 | 4.5 | 5.7 | 18.2 |
| 1981 | 543 | 135 | 98.4 | 4.3 | 5.8 | 19.6 |

[1] On a milk fat equivalent basis.
[2] Includes skim milk, 1-percent, and 2-percent.

(d)

Government participation in milk pricing arrangements began in the early 1930's. In 1982, about 69 percent of all milk sold to plants and dealers and about 81 percent of the fluid grade deliveries in the United States were regulated by Federal milk orders. Federal milk orders are part of a broad program of marketing agreements and orders authorized by the Agricultural Marketing Agreement Act of 1937. Under this authority the Secretary of Agriculture is empowered to help stabilize market conditions by issuing Federal orders which apply to handlers of milk and its products. In its simplest terms, a milk marketing order is a legal instrument issued to provide the ground rules for transactions between farmers and buyers of grade A milk in a specified geographic area.

At the present time, there are 46 Federal milk orders in effect. The Federal order program has been in effect since 1938 and has experienced steady growth over the years. In 1982, about 91.6 billion pounds of milk were regulated under Federal orders compared with 19 billion pounds of milk in 1950. In addition, 15 States now have authorized regulation of milk prices to producers, and 13 States are authorized to regulate wholesale or retail prices. In total, more than 95 percent of the milk meeting sanitary standards for fluid use is priced under either Federal or State orders.

(e)

The Federal dairy price support program supports the national average price received by farmers for manufacturing milk. The price support program is administered by the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, and is carried out under authority of the Agricultural Act of 1949, as amended. In carrying out the program, the Commodity Credit Corporation (CCC) offers to buy butter, natural Cheddar Cheese,

and nonfat dry milk at announced prices. The prices are designed to result in U.S. average prices to producers at least equal to the announced support price. Thus, when necessary, CCC removes milk from the market in the form of those dairy products which cannot be sold in commercial channels at prices corresponding to the support prices for manufacturing milk. These products are stored and then sold commercially at a later date, donated to schools and other specified institutions, or donated overseas.

### DAIRY PROGRAM OPERATION

Federal programs have been deeply imbedded in the economic fabric of the United States dairy industru for more than 40 years. During this time, the economic characteristics and performance of the industry have changed considerably. Although the basic structure of Federal dairy programs is largely unchanged, there have been changes within Federal programs to adapt to changes in the dairy economy.

There are four clearly interrelated Federal programs involved:

1. The dairy price support program which explicitly puts a floor under the price of manufacturing grade milk and thus maintains a floor under all milk prices.
2. The milk marketing order program which establishes minimum prices for fluid grade milk in most parts of the country.
3. Import controls which protect the price support program and keep the U.S. Government from supporting world milk prices.
4. Federal cooperative policy which encourages the development of farmer-owned cooperatives but provides they may not use their market power to raise prices excessively.

The thrust of these dairy programs has been to deal with the level of milk prices and with problems of instability in milk prices and dairy farm incomes.

For many years, the dairy price support program successfully fulfilled its goal of providing adequate supplies of wholesome and nutritious fluid milk and dairy products at reasonable prices to the consumer and at minimum cost to the taxpayer. However, recent years have seen milk production far outpace demand, leaving the Government to purchase unacceptable and increasing amounts of surplus dairy products.

The cost of the price support program has grown from $250 million in 1979 to more than $2.2 billion in 1982. Expenditures for fiscal year 1983 could reach nearly $2.7 billion (Table 5). These unprecedented expenditures have left the Government owning a huge and growing surplus of dairy products. As of April 1, 1983, the CCC owned 430 million pounds of butter, 758 million pounds of cheese, and 1.2 billion pounds of nonfat dry milk for thich there is little market.

TABLE 5.—PURCHASES OF SURPLUS DAIRY PRODUCTS

| | Net market removals (billion pounds, m.e.) | CCC net expenditures (millions) |
|---|---|---|
| Marketing year: | | |
| 1970/71 | 7.1 | $383.5 |
| 1971/72 | 6.6 | 369.9 |
| 1972/73 | 4.9 | 264.6 |
| 1973/74 | .7 | 77.0 |
| 1974/75 | 2.4 | 318.7 |
| 1975/76 | .9 | 258.9 |
| 1976/77 | 6.9 | 714.3 |
| 1977/78 | 3.2 | 451.4 |
| 1978/79 | 1.1 | 250.6 |
| 1979/80 | 8.2 | 1,279.8 |
| 1980/81 | 12.7 | 1,974.8 |
| 1981/82 | 13.8 | 2,239.2 |
| 1982/83 [1] | 16.3 | 2,695.0 |

[1] Projection assuming no collection of assessment.

The great expansion in production which precipitated the rise in program costs and corresponding growth of Government-owned surpluses was the result of a number of factors. In the Food and Agriculture Act of 1977, Congress, fearing projected milk shortages, decided to increase the price support level to 80 percent of parity, adjusted semiannually.

From 1978 through 1980, the unusually high support price was continually increased because of inflation. Specifically, from the beginning of fiscal year 1978, to the beginning of fiscal year 1981, the support price increased 40 percent. The distorted increases in the support price, along with low feed costs, reduced prices for beef, and depressed markets for other commodities combined to encourage many dairy farmers to increase production, and some farmers outside of dairying to take on milking cows.

In addition, over the past few decades, dairy cows have become increasingly more productive. Well established, and continually improving genetic procedures have increased the productive capacity of each dairy cow at an average rate of more than 2 percent per year over the last 3 decades.

Coupled with this increase of productive capacity has been lagging consumption. Thirty years ago, the average American consumed the equivalent of 700 pounds or 350 quarts of milk a year in the form of fluid milk and dairy products. Today, per capita consumption averages the equivalent of 520–530 pounds or 260–265 quarts of milk. Over the past 20 years, the have been substantial decreases in the consumption of butter, cream, and plain whole milk. Consumption of lowfat milk and cheese, however, have increased significantly during this same period.

The lagging consumption of milk can be attributed to a number of factors. However, a contributing factor has been a guaranteed market for surplus milk at a high price support level. By guaranteeing a market for all dairy production, the Government reduces the incentive for the industry to go through the expense of promoting their product. Furthermore, attempts at voluntary promotion programs have traditionally faltered, as all those who benefit from

the programs are not always willing to pay for the promotion. Advertising expenditures for milk lag well behind that for competing products, as shown in the following table:

TABLE 6.—1980 ADVERTISING EXPENDITURES

[In millions of dollars]

| Soft drinks | Coffee/tea | Powdered drinks | Fruit juices | Milk |
|---|---|---|---|---|
| 349 | 240 | 65 | 58 | 29 |

Source: Associated Milk Producers Inc.

In face of the prospect of growing milk production and Government purchases, Congress took action in 1981 to adjust the price support level. In March of 1981, Congress passed S. 509 (Public Law 97-6) foregoing the scheduled April 1st increase in the support level. The issue, however, was more thoroughly addressed as part of the Agriculture and Food Act of 1981. As part of that Act, Congress decided to maintain the support level at $13.10 per hundredweight through fiscal year 1982, and increase the level to $13.25 for fiscal 1983, $14.00 for 1984, and $14.60 for 1985. Under this provision, these levels would be increased if CCC purchases were estimated to drop below $1 billion for the upcoming fiscal year.

However, it soon became apparent that, even with these price support adjustments, CCC purchases would continue to increase. In February of 1982, production was up 2.3 percent, and purchases were up 7 percent from the year before. There were also nearly 150,000 more milking cows than the previous year.

Faced with ever increasing production and Government costs, Congress again addressed the surplus problem as part of the Omnibus Budget Reconciliation Act of 1982. With the intention of again addressing the issue before the end of the 97th Congress, the Senate voted to freeze the price support level at $13.10 per hundredweight. The House of Representatives took a different approach, approving a "base" program similar to the Dairy Stabilization Program proposed by the National Milk Producers Federation.

The resultant conference produced the dairy assessment program. Under this program, the price support was kept at $13.10 per hundredweight. In addition, the Secretary of Agriculture was authorized to collect $1.00 from farmers for every hundredweight of production sold. The first half of this assessment, payable beginning in 1982, would be nonrefundable, but the second 50 cents, payable beginning April 1, 1983, could be refunded to farmers if they could demonstrate that they had reduced output by slightly more than 10 percent of their previous 24 months' production.

Once again, it soon became apparent that additional changes would be needed to address the problems associated with the price support program. The first 50-cent assessment was put into place on December 1, 1982, but it proved to be extremely unpopular with dairy farmers. In early January, several farmers and other interested parties successfully petitioned the courts to enjoin collection of the fee on the basis that the Department of Agriculture had failed to comply with Federal rulemaking requirements in issuing regulations to carry out the program.

Shortly after the court injunction was issued, the Secretary of Agriculture reissued the regulations governing the 50-cent assessment. After providing an opportunity for public comment, final regulations took effect on April 16, 1983. However, since that time, subsequent court decisions have allowed for only sporadic collections of the fee. On May 31 the Secretary issued the regulations governing the second assessment for public comment. The Department's intention is to put the refundable fee into effect on August 1, 1983.

Not only has the assessment program done little to offset the cost of the price support program, it has been unsuccessful in addressing the basic problem of overproduction as well. In February of 1983, milk production was again up nearly 2.3 percent from the previous year, and Government purchases were up nearly 22 percent from the previous February.

In view of the failure of these previous actions, the Committee decided this year to take a three pronged approach in addressing the problems associated with the dairy price support program.

## DAIRY PROGRAM MODIFICATIONS

*Price support adjustment*

Since producers react in large part to price incentives, the bill lowers the price support for milk to $12.60 per hundredweight, effective October 1, 1983. The reduction in the support level will also reduce consumer prices for dairy products—thus increasing demand.

If, on January 1, 1985, the Secretary of Agriculture estimates that Government purchases for the calendar year would exceed 6 billion pounds milk equivalent, the Secretary would be required to reduce the support level by an additional 50 cents to $12.10 per hundredweight.

Furthemore, under the bill, if the Secretary estimates on July 1, 1985, that Government purchases for the next 12 months would exceed 5 billion pounds, he would again be required to reduce the support level by 50 cents per hundredweight. However, if the Secretary estimates that purchases over the same period would be 5 billion pounds or less, and determines that it is necessary in order to ensure adequate supplies of milk to meet demand, the Secretary would be required to increase the support price by 50 cents per hundredweight.

*Diversion program*

Recognizing that a price support drop would not in itself bring about enough of an immediate reduction in production to satisfy the budgetary constraints faced by the Committee, a temporary milk diversion program to reduce milk production was adopted. Under this program, producers who choose to reduce production from 5 to 30 percent below their base would receive an "incentive payment" of $10 for every hundredweight of reduced milk production below their base. A producer's base would be his choice of either his 1981/1982 marketings, or the average of his 1980/1981 and 1981/1982 marketings for the number of months during each

such period that correspond to the length of the producer's diversion contract.

The program would be carried out through a system of contracts. Producers would contract with the Secretary to reduce production by a certain amount and would then be held to the agreed upon reduction with a relatively narrow tolerance to account for production fluctuations. A producer who falls short of the contract reduction by more than the allowable tolerance would not receive payment for any reduction in production.

Since a producer's compliance is determined on the basis of commercial marketings of milk, it is clear that a producer who has overproduced, can, before the end of the contract period, adjust his commercial marketings by diverting a sufficient quantity of milk to other uses, such as feed for the producer's livestock. Thus, while it may be difficult for a producer to exactly regulate his production level, a producer should be able to readily meet the contract reduction by making necessary adjustments in commercial marketings of milk, unless the producer miscalculates. In order to avoid situations of accidental noncompliance at the end of the contract period, the Committee believes that producers should be provided with information from the Department which they can use to determine their level of compliance. Providing this information should not impose too great a burden on the Department because the opportunity to do so occurs naturally in the course of the program. That is, the bill provides for producers to receive diversion payments on a quarterly basis and for the Secretary to verify compliance before making these payments. Since the tolerance is so critical to the producer at the end of the contract period, the Committee believes that the Department should inform producers of the exact level of their compliance, relative to the tolerance level, at the time that each of the preliminary payments is made.

The diversion payments would be financed by a mandatory deduction of 50 cents per hundredweight from the price of all milk marketed beginning with the date of enactment of the bill.

Except in cases in which a producer markets his own production, the deduction will be remitted to the CCC by the handler who pays the producer. It is the Committee's intent that the Secretary require that the deduction funds be remitted to the CCC only once each month, and specifically, at the end of the month following the month in which the milk is delivered. To the extent that the funds are collected prior to the date they are to be remitted to the CCC, they should be held by the handler or other person making the reduction in a separate interest bearing account and any interest accruing on these funds should also be remitted to the CCC at the end of each month.

The diversion program would be implemented following enactment of the bill, but not later than October 1, 1983. The program and deductions would end on December 31, 1984. On April 15, 1985, the Secretary would be required to issue a report on the effectiveness of the paid diversion. The diversion program and the 50-cent price deduction are inseparably intertwined in the bill. To this end, the bill provides that if the Secretary should be enjoined by any court from implementing the price deduction provisions, the Secre-

tary must immediately suspend making any diversion payments until such time as the court action is overruled or terminated.

In addition, to facilitate administration of the program the bill prohibits the transfer of a base from one producer to another producer except in the event of death, gift, or intrafamily transfer. Further, no person who has entered into dairy production after December 31, 1982, may participate in the diversion program unless he has acquired a base under the foregoing provisions.

The bill contains several provisions to ensure that producers make real reductions in production under their diversion contracts and not offset any reductions by the transfer of part of their herd to other producers. For example, the bill makes any producer who transfers any of his dairy cattle to another milk producer after May 23, 1983, ineligible to enter into a diversion contract, unless the transfer is to another person under a diversion contract or the Secretary determines the transfer does not adversely affect the program.

The Committee believes that the success of the program in bringing about a reduction in total milk production depends on producers taking cattle out of production, not just moving them around from one farm to another. The Committee does recognize, however, that in certain instances, such as the sale of dairy stock by a producer who regularly sells breeding cattle, or in the case of a dispersal sale by a retiring producer, or a sale of cattle by a producer, who has no knowledge of this legislation, to another producer after May 23, 1983, the prohibition on the sale of cattle to another producer may pose an undue hardship. Noting that the Secretary is authorized to allow cattle to be sold to another producer if the Secretary determines that the transfer will not adversely impact on the program, the Secretary is urged to use this disretion to avoid undue hardship in situations such as those mentioned above.

Also, the Committee is concerned that the program not generate a windfall payment for producers who can establish a base but, for one reason or another, chose to terminate dairy farming before knowing of the program—the so-called accidential compliance. In cases of this type, it is the Committee's intent that a producer should not be allowed to come to the Secretary after the program is established and seek diversion payments on the basis that the termination of the producer's business activity was a reduction of production within the scope of the program.

*Dairy promotion program*

In order to further stimulate demand for fluid milk and dairy products, the bill includes a nationwide promotion program to provide for the carrying out of a coordinated program of dairy promotion to maintain and expand markets for dairy products.

Under this program, which was proposed by producer groups, each producer would be required to contribute 15 cents for each hundredweight of milk marketed commercially. The producer would, however, be given credit for up to 10 cents per hundredweight of what he pays to any State or regional promotion program approved by the Secretary. This credit will ensure that local promotional efforts, whether they be the result of State laws or cooperative contracts, are as unaffected by this bill as possible. As a

result of cooperative contracts, market order regulations, or State law, most dairymen already contribute to some promotional effort. The bill will effectively equalize those contributions so that all farmers are helping to increase commercial sales and thus reduce Government purchases.

In referring to a coordinated program of dairy promotion, the Committee does not mean to suggest that the promotion Board or the Secretary should attempt to make ongoing State and regional promotion programs that may receive funding under this program conform to a particular model. In light of the fact that the national program has to be approved in a referendum in order to continue after September 1985, the Committee believes that existing programs should not be unnecessarily modified under this charge to carry out a coordinated program. At the same time, the Committee encourages the maximum feasible use of existing State and regional promotion agencies, so as to avoid as much as possible the establishment of a large bureacracy in order to carry out this national program.

The bill establishes a National Dairy Board which is responsible for administration of the order subject to the general supervision of the Secretary. The members of the Board will be selected by the Secretary, from nominees submitted by appropriate milk marketing organizations, so that all regions of the country are properly represented. Since much of the Board's work will be carried out through an executive committee, the Committee specified in the bill that the executive committee should also be representative of every region.

The Board is required to solicit and screen proposals to develop and implement advertising and other promotional programs that will increase the commercial sales of dairy products and to conduct research into products and processes that will increase the use of milk.

Proposals selected by the Board to effectuate the purposes of the order must be submitted to the Secretary, with the Board's recommendations, for approval. The proposals must be so approved before they can become effective. However, in the case of projects involving existing, ongoing State or regional promotion organizations, it is the Committee's intent that the Secretary grant approval without requiring that significant modifications be made in such projects. In cases of this nature, the Committee believes that significant changes in a project should only be required if the Secretary determines that the project would otherwise be ineffective in achieving its purposes.

In all cases, the successful proposals should emphasize activities that will, in the near term, increase sales and use of dairy products, particularly those products purchased by the CCC under the price support program. Furthermore, these proposals should require that applicants have extensive experience in the marketing and advertising of dairy products, or in the development of new products and processes that increase the uses to which milk can be put.

Market forecasters have noted that the moneys raised by the bill could increase sales by 5 billion pounds in the first year and sustain that increased level of sales in the second year. If this is so,

CCC purchases during fiscal year 1985 could conceivably be less than the 6- and 5-billion pound levels which trigger reductions in the support price below $12.60. If these cuts are to be avoided, it is imperative that this promotional effort be started when the diversion program is begun so that if there is an increase in production following the end of the diversion program it will be absorbed by the commercial market rather than the Commodity Credit Corporation

Finally, the bill requires that a referendum be held during the period August through September 1985, to determine whether the promotional checkoff will be continued. Fifty percent of those voting must vote in the affirmative in order for the program to be continued after the referendum. The bill further authorizes bona fide producer cooperative associations to vote their membership as a bloc except that each member must be given an opportunity to cast an individual ballot by appropriate notice at least 30 days prior to the referendum.

In addition, on July 1 of each year following enactment of the promotion program, the Secretary of Agriculture would be required to submit to the Senate and House agriculture committees an annual report on the activities of the Board, and an independent analysis of the effectiveness of the program.

*Additional studies*

Last year, as part of the Agriculture Appropriations Act for fiscal year 1983, the Senate agreed to raise the minimum standards of solids-not-fat for fluid milk. Although this provision was subsequently dropped in conference, the proponents of the amendment suggested that raising the standards would both increase consumer consumption of fluid milk and leave the CCC with less nonfat dry milk to purchase. The bill requires the Secretary of Agriculture to report by July 1, 1984, on the impact of applying nationwide, standards similar to those passed by the Senate last year. In particular, the Committee is concerned with, and would like to know, what the projected effect of the adoption of these standards would be on consumer consumption trends and prices, total per capita consumption, nutritional augmentation for young and older Americans, and Commodity Credit Corporation purchases. In addition, the Committee is interested in how this issue relates to multiple component pricing for producer milk, implementing improved interagency enforcement of minimum standards, and consistency of product quality.

The bill also directs that the method by which the milk support price is calculated be studied. The study would review the application of the parity formula to milk so as to make the formula more consistent with modern production methods.

### TREATMENT OF 1982 UPLAND COTTON FOR PIK PURPOSES

In early April of 1983, nearly 6 million bales of cotton were under Commodity Credit Corporation (CCC) loan or owned by the CCC. Under the payment-in-kind program (PIK) for the 1983 cotton crop, which is designed to reduce Government stocks, producers signed up 95 percent of their upland cotton bases and committed

nearly 7 million acres to conserving uses. Of this amount, nearly 3.2 million acres are enrolled in PIK's 10–30 percent program and 948,000 acres were accepted under PIK's whole base bid option.

The Department has, however, estimated a shortfall of cotton needed for PIK compensation ranging from 700,000 to 1 million bales. In order to alleviate such a shortfall, the PIK program provides that the CCC may either acquire additional cotton under Government loans, or exercise an option of requiring farmers to obtain CCC loans on their 1983 crop of upland cotton which, in turn, could then be used for PIK compensation through liquidation of the loans.

During a period that ended June 16, 1983, the Department offered to acquire cotton from producers who had pledged cotton as collateral for price support loans for the 1982 crop of upland cotton. Under this program, farmers were allowed the opportunity to submit competitive bids as to the amount of additional compensation, if any, that they would need before selling their cotton to the CCC. However, the level of additional compensation was limited to no more than 7 percent of the total number of bales offered.

Under similar programs conducted by the Department to acquire stocks of other commodities for the PIK program, such as in the case of feed grains, the Department did not impose a limitation on the amount of compensation. In accepting bids for feed grains, the Department accepted offers for additional compensation of up to 20 percent of the amount under loan.

In order to put cotton producers in the same position as producers of other commodities, with regard to the acquisition of commodities through bids, the Committee adopted a provision that would require the Secretary of Agriculture to solicit bids from cotton producers, with upland cotton under Government loan, without specifying any limit on the amount of additional compensation that may be needed to encourage producers to sell to the CCC. The provision specifies that no bids shall be rejected, unless they exceed the amount bid under the same procedure for feed grains, until sufficient cotton to carry out the PIK program for 1983 is acquired, or until a reasonable bid period opportunity had been determined and made available by the Secretary, but in no event less than two weeks. This provision would also require the Secretary to give any producer, who had previously submitted a bid, the opportunity to nullify the previous bid, if the producer agrees to submit another bid to the CCC.

## Title II—Tobacco

### TOBACCO PROGRAM OPERATION

The tobacco program is comprised of two interrelated parts, price support loans and marketing restrictions. Price support for tobacco is mandatory under the Agricultural Act of 1949. That Act authorizes the Secretary of Agriculture to prescribe, as a condition for price support eligibility, compliance by producers with certain marketing restrictions, including marketing quotas, which are authorized under the Agricultural Adjustment Act of 1938.

The Agricultural Adjustment Act of 1938 provides the Secretary with authority to regulate the production of tobacco through acreage allotments and marketing quotas. Marketing quotas specifically define the pounds of tobacco that may be sold from the qualifying farm without penalty during a specific marketing year. For Flue-cured and Burley tobacco, the farm marketing quota is established in pounds. For other kinds of tobacco, the farm marketing quota is the actual production of tobacco, the acreage planted within the farm acreage allotment.

Marketing quotas are voted on by growers of each eligible kind of tobacco every 3 years. If quotas are approved by two-thirds of the producers voting in a national referendum, quotas become mandatory for all producers of that kind of tobacco wherever it is grown. The amount of the national marketing quota for each kind of eligible tobacco is announced annually.

In the most recent referendum, 94 percent of the Flue-cured tobacco producers and 97 percent of the Burley tobacco producers voted to approve marketing quotas for these kinds of tobacco for the 1983–85 crop years.

Penalties are imposed for marketings above the farm marketing quota (110 percent of the quota for Flue-cured and Burley tobacco). The current rate of penalty for any kind of tobacco is 75 percent of the average market price for the kind of tobacco for the previous year. Marketings in excess of the Flue-cured and Burley quota are deducted from the quota allowed the following year.

Eligibility for allotments and/or quotas is determined by (1) either the existence of a production base traced to the 1930's or (2) the subsequent issuance of allotments or quotas to new growers by the Secretary. Allotments and quotas are assigned to a particular farm. However, an owner of a farm having a Flue-cured tobacco allotment and quota may sell the allotment and quota to an active tobacco producer in the county or may lease and transfer the farm's quota to another farm within the same county. Allotments and quota for fire-cured, dark air-cured and Virginia sun-cured tobacco may be sold or leased and transferred, and Burley tobacco quota may be leased and transferred to a farm in the same county. The owner of an allotment or quota may also share or cash rent land and quota to a producer, allowing that producer to grow the tobacco on the owner's farm.

The Secretary's determination of the national quota for tobacco is a projection of the production needed to meet domestic and export demand and to provide for a reasonable amount of carryover stocks. The national quota plays a specific role in determining acreage allotments and marketing quotas for individual farms, as each tobacco farm, generally based on its previous year's acreage allotment or poundage quota, is given a pro rata share of the national quota.

Price support under the Agricultural Act of 1949 assures producers of tobacco a minimum price for their tobacco. Funds to carry out the tobacco price support program are made available through the Commodity Credit Corporation (CCC), a corporate agency of the Federal Government within the Department of Agriculture, as is also the case for other commodity programs. Personnel are provided by the Agricultural Stabilization and Conservation Service

(ASCS) through the Kansas City ASCS Management Field Office, State and county offices, and the national office in Washington, D.C., which oversees all program operations.

Currently, there are nine kinds of tobacco for which price support is available. Flue-cured and Burley tobacco account for 50 and 41 percent, respectively—for a total of 91 percent—of all the tobacco produced in the United States and Puerto Rico, and account for 70 and 26 percent, respectively, of all tobacco price support loans made from 1975 through 1982. These and most other kinds of tobacco are marketed through auction warehouses located throughout the tobacco producing regions.

The tobacco program has never operated under a system of direct payments or loans to individual farmers, unlike other commodities which participate in the Government-operated price support programs. In the case of tobacco, price support is made available to producers through 13 producer-owned and controlled cooperative marketing associations. As marketing agents for the producers, the associations enter into price support loan agreements annually with CCC. These agreements specify terms and conditions for making price support available to producers.

Producers who sell through auction markets deliver their tobacco to auction warehouses for sale. There the tobacco is weighed, displayed for sale on the auction warehouse floor, and graded by a government inspector. Each lot is offered for sale to the highest bidder. If the high bid does not equal the price support rate for that grade, the producer may consign the tobacco to the association or may market the tobacco at a later date. For each pound of tobacco consigned to the association, the producer receives a price support advance.

Producer associations may deduct a fee from the advance made to the producer to apply against administrative overhead expenses since the associations handle all aspects of the loan operation, including making advances to producers and handling, processing, and storing all the tobacco taken under loan. In addition, the responsibility for the sale of tobacco taken under loan is with the producer associations, with the sale prices proposed by the associations and approved by CCC.

Each association arranges for the tobacco consigned to it by producers to be redried, packed, and stored. This tobacco serves as collateral for the price support loans made by CCC directly to the producer associations to cover the amounts advanced to producers and other price support related expenses of the associations. Loans mature on demand and are nonrecourse.

Tobacco collateral from each crop year pool is sold by the association over a period of years. Partial redemption of collateral is not permitted. As loan collateral is sold, the sales proceeds are remitted to CCC. When the entire crop year pool has been sold, a surplus or a deficit may exist. If the sales proceeds exceed loan principal, interest, and charges, a surplus or net gain exists. For crops prior to the 1982 crop, any surplus is returned to the association for distribution to its producer members unless other disposition is approved by CCC. If the proceeds from the sale of a crop year pool for crops prior to the 1982 crop are less than the principal, interest, and charges, a deficit exists and CCC absorbs the loss.

Under the No Net Cost Tobacco Program Act of 1982, any net gain from the sale of loan collateral for the 1982 and subsequent crops of tobacco is retained by CCC to offset any losses sustained by CCC under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco or to reduce outstanding price support loans made by CCC to the association for the 1982 and subsequent crops of tobacco.

The primary cost of the tobacco program, excluding administrative costs, is the loss that occurs when sales proceeds from a crop of loan tobacco are insufficient to fully repay the price support loan made to the association. Since 1933, CCC has loaned about $6 billion to associations. For crop year pools already sold, $58 million in principal was not repaid. Of this loss, $35 million occurred 20 years ago when the 1955 and 1956 crops consisting primarily of a low quality variety of Flue-cured tobacco were sold, and $6.7 million of the loss is attributable to the destruction by fire of warehouses containing Government stocks. Unpaid interest owed CCC amounted to about $153.1 million, with about $120 million of this occurring before 1965.

Tobacco is the only commodity participating in the Government's price support program which is designed to be self-supporting with the exception of administrative expenses. Tobacco already has the best overall loss record of all the major commodities over the life of the Government's price support programs. Only about .02 percent of the total price support losses for all programs can be attributed to losses in the tobacco program, with the Department of Agriculture currently expecting a 98.8 percent return of all dollars invested in the tobacco program.

The movement of the tobacco program to a "no net cost" approach was calculated to remove the .02 percent loss which can be attributed to the program.

Prior to April 1981, CCC charged interest rates in its price support programs that were less than CCC paid on its Treasury borrowings. However, in April 1981, CCC began charging interest rates comparble to those the Treasury charges on its borrowings. Therefore, loans to associations are now made at the current cost of CCC's borrowings and another potential loss area has been eliminated from the tobacco program and other commodity programs.

### CONGRESSIONAL POLICY ON TOBACCO PROGRAM AND 1982 CHANGES

Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97-98) expressed the intent of Congress that the tobacco price support and production adjustment program be administered in such a manner as to result in no net cost to the taxpayers other than such administrative expenses as are incidental to the implementation of any commodity program.

The No Net Cost Tobacco Program Act of 1982 (Public Law 97-218) amended the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938, to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in "no net cost" to the American taxpayers, except for administrative expenses incidental to the operation of any commodity program, to limit increases in the support price for

tobacco, and to make certain other necessary structural changes in the program in order to strengthen the operation of the program. The no net cost objective is accomplished through producer contributions and assessments to a fund or account used to reimburse CCC for any net losses it may suffer under its loan agreements with producer associations in carrying out the tobacco price support program.

*Producer fund for operating the tobacco price support program at no net cost*

The 1982 Act required any tobacco association that has entered into a loan agreement with CCC for carrying out the price support program to establish a separate capital fund to which producers who market quota tobacco are required to contribute as a condition of eligibility for price support. The fund will be used to ensure that CCC will not sustain losses from the price support program carried out by the association on the 1982 and subsequent crops.

Beginning in 1983, allotment holders who leased and transferred Flue-cured allotments or quotas to others were also required to contribute to the fund at the same rate per pound as producers contributed. While the rate of contribution is established annually by the associations, the Secretary may approve the rate only if the Secretary finds that it will result in adequate resources to achieve the 1982 Act's "no net cost" objective. And, in addition, if any net gains result from the sale of loan tobacco from 1982 and subsequent crops, they will be retained by CCC for application against any losses it may incur on loan tobacco.

For all kinds of quota tobacco, other than Flue-cured, producer associations may either use the authority to establish a capital fund maintained within the association as required for Flue-cured tobacco or request the Secretary to establish a No Net Cost Account within CCC to consist of funds from producer assessments. Except for the Wisconsin Cooperative Tobacco Growers Association, the remaining producer associations have established "No Net Cost Accounts" with CCC. Producers, as a condition of price support eligibility, are required to pay assessments to such account with respect to all quota tobacco marketed by them from the farm. The accounts will be used to ensure that CCC will sustain no net losses from the price support program carried out by the associations on 1982 and subsequent crops. The amount of the marketing assessments will be established by the Secretary in consultation with the associations on 1982 and subsequent crops. Such amounts when collected must result in accounts adequate to reimburse CCC for any losses sustained under its loan agreements with the associations.

For the 1983 and subsequent crops of tobacco, the 1982 Act makes the marketing of any kind of tobacco, that is not eligible for price support because a producer has not agreed to make contributions or pay assessments to a fund or account, as applicable, subject to the same penalty as for marketing tobacco from a farm in excess of the marketing quota for the farm. This will further ensure that the fund or the account, as applicable, will be sufficient to cover any losses CCC may suffer under the tobacco price support program.

The assessment on the producer of Flue-cured tobacco in 1982 was $.03 per pound. Total funds accumulated during the marketing of this crop were about $30 million. The assessment on Burley tobacco producers in 1982 was $.01 per pound and a total of $7,762,000 was collected. The assessment on types 22 and 23 fire-cured tobacco producers was $.01 per pound with an accumlation of $445,000. Types 35 and 36 dark air-cured tobacco producers were assessed $.01 per pound and accumulated $205,000. Types 21 and 37 fire-cured and Virginia sun-cured tobacco producers were assessed $.02 per pound and accumulated $116,000. Types 51 and 52 Connecticut and Massachusetts cigar binder tobacco farmers were assessed $.03 per pound and this fund accumulated $30,000. Type 55 Northern Wisconsin tobacco producers were assessed $.02 per pound and accumulated $157,000. Type 54 Southern Wisconson tobacco producers were assessed $.02 per pound and accumulated $136,000. Types 42 and 44 Ohio cigar tobacco producers were assessed $.02 per pound and accumulated $40,000. Total funds collected on the various 1982 crops of tobaccos amounted to $38,405,000.

The 1983 assessment on Flue-cured tobacco producers and allotment owners is $.07 per pound. The assessment on other types of tobacco for 1983 will be established in the near future.

*Adjustment of price support level*

Under section 106 of the Agricultural Act of 1949, the Secretary sets the price support level for tobacco based on a formula set forth in that section. The formula for determining the price support level adjusts the 1959 support level by a 3-year average of the index of prices paid by farmers, including wage rates, interest, and taxes (parity index). Prior to 1982, the Secretary has no discretion in adjusting the overall support levels for tobacco. However, the 1982 Act gives the Secretary flexibility to adjust the support levels on different grades according to market conditions, so long as these levels average out to a level for any kind of tobacco that reflects not less than 65 percent of any increase in the level otherwise required by law. Thus, the Secretary can reduce by up to 35 percent any increase in the support level. On the other hand, if the support price for any crop decreases from the previous year, producers have to absorb the full reduction.

*Sale of tobacco allotments and quotas*

Several provisions of the 1982 Act address a major criticism levied against the concept of the tobacco allotment and are designed to encourage the movement of the allotments back to the farms to which they are assigned. The legislation specifically permits the sale of Flue-cured tobacco allotments or quotas. However, such allotments or quotas may be sold only to persons who are active tobacco producers within the same county.

Further, any person having a Flue-cured tobacco allotment that exceeds 50 percent of the tillable cropland on the person's farm must sell or forfeit the excess allotment. Sufficient tillable cropland is defined in the 1982 Act as cleared land that can be planted to crops without unusual cultivation or other preparation. A Flue-cured allotment may not exceed 50 percent of such tillable acreage. A person having an allotment that exceeds 50 percent of the farm's

tillable cropland has three alternatives—acquire more tillable land; sell the excess allotment to an active producer; or, upon failure to do either, forfeit the excess allotment for reallocation within the county.

Under the 1982 Act, corporations, public utilities, government bodies, and other entities are prohibited from owning either Flue-cured allotments or quotas or Burley quotas, unless they are significantly involved in the management or use of land for agricultural purposes. Such entities are required, under the 1982 Act, to sell their allotments or quotas to active tobacco producers by December 1983 or forfeit them.

These provisions of the 1982 Act encourage the movement of Burley and Flue-cured tobacco allotments and quotas back to those individuals who are actually engaged in farming. For the younger farmer, the provisions provided a heretofore unavailable opportunity to participate in the farming of tobacco. While an active Burley or Flue-cured tobacco farmer may purchase an allotment or quota, once such a purchase is made, the farmer either must grow it, share in the risk of growing it, sell it to an active tobacco producer, or forfeit it to be reallocated to active tobacco producers in the same county.

*Leasing of Flue-cured tobacco allotments and quotas*

The 1982 Act made several changes in the law regarding leasing of Flue-cured tobacco allotments and quotas. All of these changes were designed to reduce leasing costs and thereby reduce the cost of producing tobacco.

A major change eliminated fall leasing, except in the case of natural disasters. The practice of fall leasing of Flue-cured allotments and quotas was the subject of much criticism because of the opportunity for speculation it furnishes and the effect on leasing prices. These factors contributed significantly to the increase in the cost of production and their elimination will reduce those costs.

The 1982 Act also addresses the problem of "middlemen" who had been involved in spring leasing. It requires that agreements for the leasing of Flue-cured tobacco allotments or quotas be exclusively between the lessor and lessee, or an agent who regularly represents the lessor and the lessee in business transactions unrelated to tobacco. The Act also requires the lessor and the lessee of a Flue-cured tobacco allotment or quota to certify that applicable requirements have been met and enforces this, if there is a knowingly false statement, by making the lessee ineligible for price support and reducing the lessor's allotment or quota. Further, the Act limits the total Flue-cured allotment for any farm, after transfer to that farm of allotment by either lease or sale, to 50 percent of the acreage of tillable cropland on the farm. Subleasing of allotment or quota is prohibited. All of these provisions were designed to eliminate speculation in the leasing of Flue-cured tobacco allotments and quotas, reduce production costs, and make it more desirable for a person to sell an allotment or quota if such person does not intend to farm.

## PROVISIONS IN THE NEW TOBACCO BILL

Although provisions enacted in the 1982 Act brought significant change to the operation of the tobacco program, the Committee believes that additional revisions are necessary in several areas. The proposals contained in the bill address many of the controversial aspects of the program and attempt to resolve difficulties which remain in spite of the extensive modifications enacted in Public Law 97-218, the No Net Cost Tobacco Program Act of 1982.

*Adjustment of the price support level*

It was anticipated that use of the authority provided in the No Net Cost Tobacco Program Act of 1982 to modify price support increases would make U.S. tobacco more competitive with foreign tobacco and would result in less tobacco going into loan stocks. However, this has not occurred. Even with the modified price support increases, domestic tobacco is still priced significantly higher than foreign leaf. Without competitive prices, exports are continuing to decline, thus resulting in a weak market which caused a higher percentage of last year's crop to go under loan.

In order to resolve this situation, a further adjustment in the price support level is necessary. Under the bill, the price support level for the 1983 and 1984 crops of Flue-cured tobacco would be frozen at the 1982 support level. Further, the price support level for the 1985 crop of Flue-cured tobacco would be frozen at the 1982 support level if the 1985 support level would not be more than 5 percent greater than the 1984 support level as determined under the regular formula.

The bill would also freeze the price support level for the 1983 crop of Burley, Fire-cured, dark air-cured, sun-cured, and cigar and binder tobaccos at the 1982 support level. For the 1984 and 1985 crops of these tobaccos, the bill authorizes the Secretary of Agriculture to establish price support levels for each of such crops at levels that will not narrow the normal price support differential between Flue-cured and such other tobaccos. Before exercising this authority, however, the Secretary would request public comment on, and take into consideration, changes in the costs of producing such other tobacco, the supply and demand conditions for such tobacco, and such other relevant factors as the Secretary determines appropriate. Under this authority, the Committee expects the Secretary to establish for Burley tobacco the support level at such level as will not narrow the 1982 price support differential between Flue-cured tobacco and Burley tobacco. With respect to the other kinds of tobacco, it is expected that the Secretary will not increase the differential that existed in 1982 between the support level for each such kind and the Flue-cured support level.

These changes will improve the competitive position of U.S. tobaccos in world markets. Interrupting the escalation in the price of U.S. tobacco will enable our product to become more competitive with foreign tobacco. Therefore, less of it would go into loan stocks, reducing CCC's outlays and potential grower contributions to cover CCC losses.

*Leasing of Flue-cured tobacco allotments and quotas*

The bill addresses the concern that the tobacco program benefits allotment owners who are not directly involved with the growing of tobacco. Some allotment owners do not desire to grow the allotment and instead lease their quota to an active producer. The actual cultivation of the crop may be done either on the farm to which the allotment was assigned or the quota may be transferred to another farm. Usually, but not always, this transaction is made on a cash rent basis with the rental paid prior to the growing season.

In order to encourage owners to become directly involved with the growing of the crop or to sell their allotments, the bill would permit, beginning with the 1984 crop year, the lease and transfer of the quota off the farm to which it is assigned only if the lessor "shares in the risk" of producing the crop. This is achieved by requiring that no payment on the lease prior to the sale of the crop would be permissible.

This restriction is designed to provide for a more equitable relationship between the lessor and the lessee so that both would share in the potential risk from the growing of tobacco.

Furthermore, beginning with the 1987 crop, the lease and transfer of Flue-cured allotments and quotas would be prohibited except for quotas consisting of 3,000 pounds or less. The tobacco would be required to be grown on the farm to which it was assigned unless it was combined with another farm in those instances in which the entire farm was leased.

The provision for the continuation of lease and transfer in the case of relatively small quotas of 3,000 pounds or less would last only through the 1989 crop when all lease and transfer of Flue-cured allotments and quotas would be terminated. The exemption would ensure that these small allotment owners, many of whom are elderly, widowed, or otherwise have a significant dependence upon the income derived from the lease of their allotments, would have additional time to sell the allotments or make other arrangements for the growing of the tobacco. The delay in the implementation of the prohibition of lease and transfer in these instances is deemed necessary to avoid causing any undue hardship on these individuals.

The delay in the elimination of lease and transfer of these smaller allotments will also assist farmers who depend upon leasing quota each year. Farmers who own small allotments are able to grow tobacco by leasing-in enough quota for an efficient operation. The additional 3 years of lease and transfer of allotments of 3,000 pounds or less will allow these growers, who must have access to some tobacco quota in order to continue farming, an opportunity to make suitable arrangements prior to 1990, when all lease and transfer will be eliminated.

The temporary extension of lease and transfer of relatively small quotas together with the provision mandating that allotment owners who lease and transfer their allotment and quota must "share in the risk" of growing tobacco will significantly benefit small farmers. They will be able to continue their operations, but without the costs involved with the payment of lease fees prior to

the marketing season. The "share in the risk" provision will mandate payment for leased quota only after the crop has been sold. This change will assist growers who now have to borrow money to pay lease costs.

There are approximately 108,000 farms with Flue-cured quotas of 3,000 pounds or less and they make up 55.2 percent of all Flue-cured tobacco farms. However, the total quota assigned to these farms amounts to only 17.4 percent of the entire national quota.

Under the bill, if Flue-cured tobacco is not produced or considered produced on the farm to which it is assigned, the owner must sell the allotment to a qualified buyer or beginning with the 1986 crop the owner must forfeit the allotment. Specifically, owners of Flue-cured allotments or quotas which have not been planted or considered planted at least 2 of the past 3 years will be subject to such forfeiture. Until 1990, allotment or quota that is leased and transferred would be considered planted on the lessor farm. Any allotment or quota so forfeited would be distributed among active growers in the country.

This provision will bring the allotment owner more closely involved with the production of the crop or will encourage those not so inclined to sell their allotment to active tobacco farmers. It will also provide relief to lessees from the problem of swiftly escalating lease rates which have severely hampered farmers who lease quota in order to grow tobacco. These changes should provide for a significant shift in the ownership of tobacco allotments from those having no interest in actually producing the crop to those who are actively engaged in tobacco farming.

*Limit on the lease of Burley tobacco quotas; prohibition against fall leasing; combination of farms*

Under current law, not more than 30,000 pounds of Burley tobacco quota may be leased and transferred to any farm. The Committee believes that this limitation is too high and a smaller amount would resolve difficulties inherent under the present allowance. A reduction in the amount a producer can lease may discourage overproduction and would benefit smaller growers by preventing larger growers from leasing all of the available quota to the detriment of the smaller grower. The bill would lower the limitation on leased-in quota from 30,000 pounds to 15,000 pounds per farm.

Fall leasing of Burley tobacco quota has been criticized as encouraging overproduction and speculation in the leasing arrangement of quotas. To address these problems, the bill would prohibit the filing of any lease of Burley tobacco quota after July 1 of the crop year specified in the lease. This is similar to a provision adopted last year to eliminate fall leasing in the case of Flue-cured tobacco.

The bill would also require the Secretary to combine as one farm tracts of land in contiguous counties in the same State when one or more of the tracts have a Burley tobacco quota and all tracts of land are owned and operated by a producer as a single unit. This provision would remove the inequity to a producer who happens to farm tracts of land which are located in different counties. The provision would allow such a producer to grow tobacco on any of the

tracts so long as the farm is operated as a single unit, thus increasing the efficiency of the farming operation.

*Burley quota reduction increase*

Burley tobacco farmers have produced quantities of Burley tobacco during the past 2 years which have exceeded the amount anticipated by the Secretary. However, the Secretary is limited by the current law in the amount by which the Secretary may decrease the national marketing quota for Burley tobacco from one year to the next. To correct this problem, the bill would allow greater discretion to the Secretary to adjust Burley quotas. The bill, effective with the 1984 crop, would increase from 5 to 15 percent the downward adjustment the Secretary may make in the national marketing quota for Burley tobacco when the Secretary determines that such an adjustment is desirable for the purposes of effecting an orderly reduction in supplies. This provision will allow the Secretary to bring the supply of Burley tobacco in line with demand and decrease the amount which may go under loan.

*Elimination of the double assessment*

Owners of Flue-cured allotments who leased and transferred their allotment and quota to others were required, under Public Law 97-218, beginning with the 1983 crop year, to pay a contribution to the No Net Cost Tobacco Fund equal to the contribution required of tobacco producers.

The implementation of this provision has not brought about the intended result. During consideration of the No Net Cost Tobacco Program Act of 1982, it was considered that allotment holders should share in any cost the program may incur and, therefore, should bear a portion of the assessment necessary to ensure that the CCC assumes no liability for losses resulting from the sale of loan tobacco.

Therefore, for the 1983 crop, allotment holders who leased and transferred their quotas were required to pay a contribution to the Fund at the time the transfers were filed. Producers are required to make their contribution to the Fund when the crop is sold. It is clear that in practice the allotment holder's contribution is merely passed along to the producer in the form of higher lease rates and the producer is, in effect, paying a "double assessment". To correct this inequity, beginning with the 1984 crop, the bill removes the contribution requirement on the allotment holder.

*New grower allotments*

The bill provides for an increase from 1 percent to 3 percent in the portion of the national acreage allotment for Flue-cured tobacco that may be set aside as a reserve for new growers.

Present law provides that up to 1 percent of the national acreage allotment may be used for this purpose and for other adjustments in allotments to make their distribution more equitable in such instances as the Secretary deems appropriate.

The Committee believes that the allocation of up to an additional 2 percent of the national allotment annually for the purpose of granting allotments to new growers would provide an additional

element of equity in the access of the tobacco program to actual tobacco farmers.

In addition, the bill provides that the yield for new tobacco farms would be established on the basis of productivity for the farm and yields for similar farms. This would ensure that the new allotments would reflect poundage quota allocations based upon demonstrated factual data, rather than upon an arbitrary figure based on community yields established several decades ago.

*Mandatory sale of allotments by nonfarming entities*

Under provisions of the No Net Cost Tobacco Program Act of 1982, any person (including entities such as corporations, public utilities, government bodies, and others, but not including individuals) not significantly involved in the management or use of land for agricultrual purposes is required to sell its Flue-cured and Burley allotments or quota by December 1, 1983, or forfeit them.

The Department of Agriculture has published proposed regulations to implement these provisions. However, by the time the regulations are finalized there may be little time for persons to actually make a sale of the allotment before the forfeiture provision takes effect. In order that this requirement be carried out without undue hardship to owners of allotments, the bill would delay, until December 1, 1984, the date by which these nonfarm entities would be required to sell their allotments. This provision is applicable to both the owners of Flue-cured and Burley tobacco allotments or quotas.

There is considerable confusion as to who was meant to be covered by this provision. It is clear that allotments on lands that are being used as parking lots, airports, and power line rights of way were intended to be sold or forfeited. Beyond that, numerous situations arise that do not fall into any clear-cut category.

The Department of Agriculture's proposed regulations have caused concern in that they would seem to require that certain entities that are still using the land involved for agricultural purposes would be required to sell or forfeit their allotments. These would include, for example, the estates of family farmers who also may have had significant off-farm income, family farm corporations where more than half of the corporation's income came from nonfarming sources, and other similar situations.

The Committee believes that the major purpose of this provision is to require the sale or forfeiture of allotment by those entities not using the land for agricultural purposes. Therefore, the bill clarifies the mandatory sale provision in the 1982 Act to specify that the requirement is not applicable to farms on which the land is being used for agricultural purposes. The use of land for agricultural purposes basically means that the land is involved in the production of agricultural commodities for commercial sale or use for the feeding of animals. This would include not only the production of row crops and grains but perennial crops such as hay and pasture for the feeding of livestock, including horses.

*Greater flexibility in the use of the no-net-cost fund*

The bill provides that an association carrying out the price support program may use moneys in the No Net Cost Fund for the

purposes of reducing the association's outstanding indebtedness to CCC and making loan advances to producers. Also, use of such moneys for any other purposes that will be mutually beneficial to producers who contribute to the Fund and to CCC shall be considered an appropriate use of the Fund if approved by the Secretary.

Public Law 97-218 is vague in regard to the purposes to which moneys in the fund can be applied. The Committee bill seeks to provide reasonable flexibility to an association to use the moneys for purposes that would be beneficial to both CCC and the associations. For example, reducing the association's outstanding indebtedness to CCC for the 1982 and subsequent crops of tobacco and making loan advance to producers, would result in fewer association loans from CCC, thus reducing the costs to both CCC and the association, and ultimately to the producers of tobacco who must pay for the cost of the program.

Questions were raised in the Committee hearings concerning the use of these moneys in connection with sales of tobacco by a producer association. The Committee would expect that sales would be made in an orderly manner. Also, sales should be made on the basis of published price lists, open tenders, or other similar procedures or mechanisms so that all buyers have an equal opportunity to participate.

Further, the bill permits the Flue-cured association to request the Secretary of Agriculture to establish a no-net-cost "account" in CCC in lieu of a "fund" in the association. All other associations except the Flue-cured association have this option in present law. It may be more beneficial to producers and to CCC at some future time if the moneys collected to ensure a no-net-cost program have the option of being held in a CCC "account" rather than the present association "fund".

*Review of Burley tobacco imports*

The bill would require the Secretary of Agriculture to review, in accordance with section 22 of the Agricultural Adjustment Act, whether imports of Burley tobacco are interferring with the domestic price support program, and, where appropriate, recommend to the President a section 22 investigation (or emergency action) whenever a freeze or a downward adjustment of more than 35 percent is imposed with respect to the price support level for Burley tobacco or the stocks of Burley tobacco held by producer associations are in excess of 20 percent of the basic quota for Burley tobacco.

The increase of foreign grown tobacco is perceived as being a major contributor to the problem of oversupply of domestic tobacco. The importation of large amounts of foreign tobacco could have a detrimental effect on the stability of the tobacco program. This situtation must be constantly reviewed to ascertain what effect these imports have on the price support program.

*Other technical changes*

The bill changes the date for annouuncing the national marketing quota and related determinations for Flue-cured tobacco from December 1 to December 15. The announcement date for other tobacco under an acreage-poundage program would be changed from

February 1 to March 1. (Currently, Flue-cured tobacco is the only kind of tobacco under an acreage-poundage program.)

Crop estimates, which are needed in quota and related determinations, are released about November 10 and January 15. Since tobacco consititutes such a small part of the USDA crop production report, it is not considered feasible to request a separate report. A later date for announcing the marketing quotas and related determinations would allow industry groups and individuals to provide USDA with considerably more informed comments.

By shifting the announcement dates for the national marketing quota and related determinations for Flue-cured from December 1 to December 15, USDA would be able to make the required determinations with more certainty about a number of important economic statistics.

Further, the bill would require the Secretary to determine the acreage planted to Flue-cured tobacco on each farm. The Flue-cured tobacco program operates on the basis of acreage allotments and poundage quotas. Precise determination of the planted acreage will provide for better management and enforcement of quota allocations on each farm, thereby reducing the likelihood of "stray" tobacco moving into markets. This provision is designed to improve program integrity. It should not be a burden on the Secretary since it could be acccomplished by photographic methods largely already undertaken rather than actual measurement.

## Section-by-Section Analysis

## Title I—Dairy

*Short title*

Section 101 provides that this title may be cited as the "Dairy Production Stabilization Act of 1983".

### SUBTITLE A—DAIRY COMPLIANCE PROGRAM

*Dairy production stabilization*

Section 102 amends section 201 of the Agricultural Act of 1949 by totally deleting the language of subsection (d) thereof and inserting in its place an entirely new subsection (d). The references below are to the paragraphs of the new subsection (d).

Paragraph (1)(A) provides that effective for the period beginning with the date of enactment of the Dairy Production Stabilization Act of 1983, and ending September 30, 1985, the price of milk is required to be supported at a rate equivalent to $13.10 per hundredweight for milk containing 3.67 per centum milkfat.

Paragraph (1)(B) provides that effective for the period beginning October 1, 1983, and ending September 30, 1985, the price of milk is required to be supported at a rate equivalent to $12.60 per hundredweight for milk containing 3.67 per centum milkfat, except that—

(i) on January 1, 1985, if the Secretary estimates that for the 12-month period beginning on such date net price support purchases of milk or the products of milk would be in excess of six billion pounds milk equivalent, the Secretary must reduce the

price support rate in effect on such date in the amount of 50 cents per hundredweight; and

(ii)(I) if, on July 1, 1985, the Secretary estimates that for the 12-month period beginning on such date net price support purchases of milk or the products of milk would be in excess of five billion pounds milk equivalent, the Secretary must reduce the price support rate in effect on such date in the amount of 50 cents per hundredweight; or

(II) if, on July 1, 1985, the Secretary estimates that for the 12-month period beginning on such date net price support purchases of milk or the products of milk would be five billion pounds milk equivalent or less, and if the Secretary determines it necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, the Secretary must increase the price support rate in effect on such date by at least 50 cents per hundredweight.

Paragraph (1)(C) provides that the price of milk shall be supported through the purchase of milk and the products of milk.

Paragraph (2)(A) requires the Secretary to provide during the period beginning with the date of enactment of the Dairy Production Stabilization Act of 1983 and ending December 31, 1984, for a reduction of 50 cents per hundredweight to be made in the price received on all milk marketed in the United States (including only the 48 contiguous States) by producers for commercial use. The purpose of this requirement is to encourage the adjustment of milk production to levels consistent with the national demand for milk and the products of milk and to provide funds needed to implement a paid diversion program and to otherwise offset the cost of the price support program.

Paragraph (2)(B) requires each person making payment to a producer for milk purchased from the producer to remit to the Commodity Credit Corporation at such time and in such manner as prescribed by the Secretary the funds collected as a result of the reduction in price received by producers on marketings of all milk as provided for in subparagraph (A). In the case of a producer who markets milk of the producer's own production directly to consumers, the reduction funds must be remitted directly to the Corporation by the producer.

Paragraph (2)(C) requires the Corporation to credit the funds received by it under this paragraph to a specific new Fund designated as the Dairy Stabilization Settlement Fund. These funds are to be used to make payments to dairy farmers who reduce their marketings of milk under a diversion contract entered into with the Secretary under the milk diversion program. To the extent that funds deposited in the Fund exceed the amount needed for milk diversion payments, the excess must be used to reduce the cost of the price support program for milk. To the extent that the Fund is inadequate to meet the need for payments to producers who reduce marketings in acordance with their diversion contracts, any shortfall in the amount of money needed to make such payments is to be made-up using funds otherwise available to the Corporation. This subparagraph also provides that the funds remitted to the Corporation under this provision are to be considered as included in the payments to a producer of milk for purposes of the mini-

mum price provisions of Federal milk marketing orders under the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

Paragraph (3)(A) requires the Secretary to establish a milk diversion program under which the Secretary must offer to enter into a contract with any milk producer in the United States (including only the 48 Contiguous States) for the purpose of reducing the quantity of milk marketed by the producer for commercial use during the program period. The program period begins with a date determined by the Secretary (not earlier than the date of enactment of this subtitle nor later than October 1, 1983) and ends on December 31, 1984.

Paragraph (3)(B) provides that each diversion contract require that—

(i) the producer must reduce the quantity of milk marketed for commercial use in an amount equal to a percentage specified by the producer, but not less than 5 percent and not more than 30 percent of the quantity of milk marketed by such producer for commercial use during such producer's marketing history period;

(ii) any production capacity of a facility that becomes available for use because the producer reduces milk production in order to comply with a diversion contract must not be used by the producer for milk production, or made available by the producer for use by any other person for the production of milk;

(iii) any dairy cattle that could have been used by the producer for the production of milk if the producer had not entered into and complied with the contract must not have been sold, leased, or otherwise transferred to any other person for the production of milk after May 23, 1983, unless the transfer is to another producer who has entered into a milk diversion contract or unless the Secretary determines that the transfer will not adversely affect the purpose of the diversion program;

(iv) the producer must repay to the Secretary the entire diversion payment received by the producer, with simple interest payable at the rate of 12 percent per annum commencing on the date the first diversion payment was received, if the producer fails to comply with the contract.

Paragraph (3)(C) establishes the method for computing the payment to be made by the Secretary to a producer who complies with a diversion contract. Except as provided in subparagraph (D), the payment is in an amount equal to the product of $10 per hundredweight and the amount, measured in hundredweights, by which the quantity of milk marketed commercially by the producer during the period specified in such contract is less than the quantity of milk marketed commercially by the producer during the marketing history period.

Paragraph (3)(D) provides for a tolerance in computing the payment. It prohibits any payment to a producer for—

(i) any reduction in the quantity of milk marketed commercially by the producer that exceeds the reduction in the quantity of milk marketed commercially, as specified in the diversion contract, by an amount of more than 3 percent of the quantity

of milk marketed commercially by the producer during the marketing history period; and

(ii) any reduction in the quantity of milk marketed commercially by the producer if the total reduction in the quantity of milk marketed commercially by such producer is less than the larger of (I) 5 percent of the quantity of milk marketed commercially by the producer during the marketing history period, or (II) the amount of the reduction in milk specified in the diversion contract, minus 3 percent of the quantity of milk marketed commercially by the producer during the marketing history period.

Paragraph (3)(D) also prohibits any payment for a reduction in the quantity of milk marketed commercially by a producer who violates any of the specified requirements of the paid diversion program.

Paragraph (3)(E) authorizes the Secretary to modify diversion contracts if the Secretary determines that otherwise an excessive reduction in the level of milk production in the United States would result from contracts entered into under this program and the Secretary announces such determination not later than October 1, 1983. The Secretary may reduce the required reduction on a uniform basis among all contracts, or may provide for adjustments on such other basis as the Secretary determines equitable in order to ensure sufficient fluid milk to meet the needs of an area or otherwise not to affect adversely the economy of an area.

Paragraph (3)(F) requires any producer of milk in the United States seeking to enter into a milk diversion contract to provide the Secretary with evidence of the producer's marketing history. The marketing history is the marketings of milk by the producer for commercial use during the period beginning in 1981 and ending in 1982 that corresponds to the period of the diversion contract, or at the option of the producer the average marketings of milk by the producer for commercial use during the period beginning in 1980 and ending in 1981 and during the period beginning in 1981 and ending in 1982 that correspond to the period of the diversion contract. The producer's marketing history may be adjusted as the Secretary determines necessary to correct for abnormally low production resulting from a natural or man-made disaster beyond the control of the producer or such other factors as the Secretary determines necessary to provide a fair and equitable marketing history. This paragraph further requires that the Secretary provide for the issuance of a marketing history card to the producer after it has been determined that the evidence presented by the producer is a true and accurate representation of the marketings of the producer during the marketing history period.

Paragraph (3)(G) prohibits the Secretary from assigning any marketing history to any producer who commenced marketing of milk after December 31, 1982, except as provided in subparagraph (H).

Paragraph (3)(H) prohibits the transfer of a producer's marketing history to any other person, unless the entire milk production facility used by the producer to produce milk for commercial use during the marketing history period and the producer's entire dairy herd were transferred by reason of the death of the producer, by reason of a gift from the producer, or to a member or members

of the family of the producer. The term "member or members of the family of the producer" for the purpose of this provision means (i) an ancestor or ancestors of the producer, (ii) the spouse of the producer, (iii) a lineal descendant or descendants of the producer, of the producer's spouse, or of a parent of the producer, or (iv) the spouse of any such lineal descendant.

Paragraph (3)(I) requires the eligibility for diversion payments to be determined on the basis of the marketing history card.

Clause (i) of paragraph (3)(J) requires that producers eligible for diversion payments apply for such payments at the end of each quarter. Prior to approving any payment, the Secretary must require evidence that the required reduction in marketings specified in the producer's diversion contract has taken place. As part of such evidence, the producer must certify, in a form specified by the Secretary, that the reduction is a net decrease in marketings of milk for commercial use and has not been offset by expansion of production in other production facilities in which the producer has an interest, by transfer of a partial interest in the production facility, or by employment of any scheme or device to qualify for a payment which the producer would otherwise not be eligible to receive.

Clause (ii) provides that the quarterly diversion payments are to be considered preliminary settlements under the diversion contract. A final settlement shall be made following the end of the contract period and shall be based on the volume of marketings for the entire contract period. If, based on total marketings for the contract period, it is determined that the preliminary settlements have resulted in overpayments to the producer, the Secretary is required to recover the overpayments from the producer or require that the overpayments be recovered by the person who made the diversion payments to the producer under subparagraph (K).

Paragraph (3)(K) provides for payment applications to be made by producers through the ASCS county committees, except that upon the request of a person making payment to producers for milk, the Secretary may allow such person to make diversion payments to such producers on the basis of the marketing history cards. In this event, the payments will be made from the funds collected from producers by such person under the milk price reduction provisions in paragraph (2). To the extent that these funds are inadequate to make the diversion payments due producers, the Secretary is required to advance funds for the diversion payments from the Dairy Stabilization Settlement Fund or from funds otherwise available to the Commodity Credit Corporation. This subparagraph further provides that any person making payments to producers for milk and advancing diversion payments to producers for reductions in marketings of milk shall be fully accountable to the Corporation for the application of such funds in the form and manner prescribed by the Secretary.

Paragraph (3)(L) provides for the assignment of a diversion contract by a producer only if—

> (i) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

(ii) the assignee is a person to whom the producer's marketing history may be transferred under subparagraph (H);

(iii) the producer and assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the diversion contract; and

(iv) a copy of the assignment agreement is submitted to the Secretary before the transfer occurs.

Paragraph (3)(M) provides that a diversion contract entered into by a producer, who by reason of death cannot perform or assign such contract, may be performed or assigned, in accordance with the previous subparagraph, by the estate of the producer.

Paragraph (3)(N) provides that if the provisions of paragraph (2), providing for the 50-cent per hundredweight reduction in the price received for milk marketed for commercial use, are held to be invalid by any court, or the Secretary is restrained or enjoined by any court from implementing such provisions, the Secretary shall immediately suspend making any diversion payments for the period beginning with the date of such court action and shall resume making such payments only if such court action is overruled, stayed, or terminated.

Paragraph (3)(O) requires that if the Secretary determines that there has been a marked deviation in the composition of milk marketed for commercial use by a producer from that of the producer's marketings during the marketing history period, the Secretary shall make an appropriate adjustment in the producer's diversion payments to reflect the composition of milk marketed during the marketing history period.

Paragraph (4) requires that each producer who markets milk and each person required to make payment to the Commodity Credit Corporation must keep such records and make such reports, in such manner as the Secretary determines necessary to carry out the dairy production program provided for in this subsection. This paragraph also authorizes the Secretary to make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged, is engaged, or is about to engage in any act that constitutes or will constitute a violation of any provision of this subsection or any regulation issued under this subsection. For this purpose, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring the person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey an order of the court may be punishable as a contempt of court. All process in any such case may be served

in the judicial district of which such person is an inhabitant or wherever such person may be found.

Paragraph (5)(A) vests the district courts of the United States with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of subsection (d) or any regulation issued under subsection (d). Any civil action authorized to be brought under subsection (d) must be referred to the Attorney General for appropriate action, except that minor violations are not required to be referred to the Attorney General whenever the Secretary believes that the administration and enforcement of subsection (d) would be adequately served by suitable written notice or warning to any person commiting the violation.

Paragraph (5)(B) requires that each person (i) as to whom there is a failure to make the required reduction in the price of milk received by a person, (ii) who fails to remit to the Commodity Credit Corporation the funds required to be collected and remitted by paragraph (2)(B), or (iii) who fails to make the reduction in marketings required by a milk diversion contract shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk for the fiscal year in which the failure occurs on the quantity of milk as to which the failure applies. In the event that the support price for milk changes during a fiscal year, the marketing penalty shall be based on the level of price support in effect at the time the failure occurs. The Secretary may reduce any marketing penalty in an amount that the Secretary determines to be equitable in any case in which the Secretary finds that the failure was unintentional or without knowledge on the part of the person concerned. This subparagraph also provides that each person who knowingly violates any provision of subsection (d), or any regulation issued under the subsection, shall be liable for a civil penalty of not more than $1,000 for each such violation. Any marketing or civil penalty may be assessed by the Secretary only after notice and opportunity for a hearing.

Paragraph (5)(C) authorizes any person against whom a marketing or civil penalty is assessed to obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed. The Secretary is required to promptly file in the court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.

Paragraph (5)(D) vests the district courts of the United States with jurisdiction to review and enforce any marketing or civil penalty imposed under subparagraph (b).

Paragraph (5)(E) provides that the foregoing remedies are in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

Paragraph (5)(F) authorizes the Secretary to use (i) administrators of Federal milk marketing orders, (ii) ASCS State county committees, or (iii) administrators of State milk marketing programs, on a reimbursable basis, as the Secretary deems appropriate in implementing subsection (d).

Paragraph (6) provides that the term "United States" as used in connection with the milk price reduction and paid diversion provi-

sions in subsection (d) means the forty-eight contiguous States in the continental United States; thereby excluding Alaska, Hawaii, Puerto Rico and the territories and possessions. This definition of United States is not applicable to the provisions of paragraph (1) of subsection (d) which establish the level of price support for milk.

*Report*

Section 103 requires the Secretary to submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry, not later than December 31, 1984, a report on recommendations for changes in the application of the parity formula to milk so as to make the formula more consistent with modern production methods and with special attention to the cost of producing milk as a result of changes in productivity.

SUBTITLE B—DAIRY PROMOTION PROGRAM

*Findings and declaration of policy*

Section 110(a) contains congressional findings regarding the significant role of dairy products in the human diet and that the production of dairy products plays in the Nation's economy, and the effect that movements of dairy products have on interstate and foreign commerce.

Subsection (b) states that it is in the public interest to provide for an orderly procedure for financing (through assessments on all milk produced in the United States for commercial use) and carrying out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States. This subsection also clarifies that nothing in this subtitle is intended to authorize milk production controls or to otherwise limit the right of individuals to produce milk.

*Definitions*

Section 111 contains definitions of various terms used in this subtitle as follows—

(a) defines the term "Board" as the National Dairy Promotion and Research Board provided for in this subtitle;

(b) defines the term "Department" as the United States Department of Agriculture;

(c) defines the term "Secretary" as the Secretary of Agriculture;

(d) defines the term "milk" as any class of cow's milk produced in the United States;

(e) defines the term "dairy products" as products manufactured for human consumption which are derived from the processing of milk, and includes fluid milk products;

(f) defines the term "fluid milk products" as those milk products normally consumed in liquid form as a beverage;

(g) defines the term "person" as any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(h) defines the term "producer" as any person engaged in the production of milk for commercial use;

(i) defines the term "promotion" as actions such as paid advertising, sales promotion, and publicity to advance the image and sales of and demand for dairy products;

(j) defines the term "research" as studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for milk and dairy products;

(k) defines the term "nutrition education" as those activities intended to broaden the understanding of sound nutritional principles including the role of milk and dairy products in a balanced diet;

(l) defines the term "United States" as the several States and the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

*Issuance of orders*

Section 112(a) requires the Secretary, within the period beginning with the date following the date of enactment of this subtitle and ending 30 days after receipt after a proposal for a dairy promotion and research order, to publish the proposed order and give due notice and opportunity for public comment upon the proposed order. The proposal for an order may be submitted by an organization certified under section 114 or by any interested person affected by the provisions of this subtitle.

Subsection (b) requires that after notice and opportunity for public comment are given, as provided for in subsection (a), the Secretary must issue a dairy products promotion and research order. Under this provision, it is contemplated that only one such order shall be in effect at any given time. Such an order would become effective no later than ninety days following publication of the proposal.

Subsection (c) authorizes the Secretary to issue amendments to dairy products promotion and research orders.

*Required terms in orders*

Section 113 sets fort the terms and conditions that must be included in an order. These include the following:

Subsection (a) requires the order to provide for the establishment and administration of appropriate plans or projects for advertisement and promotion of the sale and consumption of dairy products, for research projects related thereto, for nutrition education projects, and for the disbursement of necessary funds for such purposes. Any such plan or project must be directed toward the sale and marketing or use of dairy products and fluid milk products to the end that the marketing and use of dairy products may be encouraged, expanded, or improved. No advertising or sales promotion program may make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

Subsection (b) requires the order to provide for the establishment and appointment by the Secretary of a National Dairy Promotion and Research Board to consist of not less than 36 members. Mem-

bers of the Board must be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 114, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by milk producers in the manner authorized by the Secretary. In making appointments to the Board, the Secretary must take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States are to be used as a unit. A region may be represented by more than one director and a region may be made up of more than one State.

Subsection (b) further provides that the term of appointment to the Board shall be for 3 years with no member serving more than two consecutive terms, except that initial appointments would be staggered for periods of 1, 2, and 3 years. Board members would serve without compensation, but would be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board including a per diem allowance as recommended by the Board and approved by the Secretary. The Board is required to appoint from its members an executive committee whose membership shall equally reflect the different regions in the United States in which milk is produced and, to the maximum extent practicable, the membership composition of the Board. The executive committee would have the duties and powers conferred upon it by the Board.

Subsection (c) provides that the order must define the powers and duties of the Board, which shall include only those enumerated in this section. These include, in addition to the powers described elsewhere in this section, the powers to (1) receive and evaluate, or on its own initiative develop, and budget for plans or projects to promote the use of fluid milk and dairy products as well as proposals for research and nutrition education and to make recommendations to the Secretary regarding such proposals, (2) administer the order in accordance with its terms and provisions, (3) make rules and regulations to effectuate the terms and provisions of the order, (4) receive, investigate,and report to the Secretary complaints of violations of the order, and (5) recommend to the Secretary amendments to the order. The Board is required to solicit, among others, research proposals that would increase the use of fluid milk and dairy products by the military and by persons in developing nations, and that would demonstrate the feasibility of converting surplus nonfat dry milk to casein for domestic and export use.

Subsection (d) requires the Board to develop and submit to the Secretary for approval any promotion, research, or nutrition education plan or project and that any such plan or project must be approved by the Secretary before becoming effective.

Subsection (e) requires the order to provide that the Board shall submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including projected costs of dairy products promotion and research projects.

Subsection (f) provides for the order to authorize the Board, with the approval of the Secretary, to enter into agreements for the development and conduct of the activities authorized under the order as specified in subsection (a) of section 113, and for the payment of the cost thereof with funds collected through the assessments under the order. Any such agreement must provide that (1) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that show estimated costs to be incurred for such plan or project, (2) the plan or project shall become effective upon the approval of the Secretary, and (3) the contracting party shall keep accurate records of all of its transactions, account for funds received and expanded, and make periodic reports to the Board of activities conducted and such other reports as the Secretary or Board may require.

Subsection (g) requires the order to provide that persons making payment to producers for milk purchased from the producer must collect an assessment, in the manner as prescribed by the order, based upon the number of hundredweights of milk for commercial use handled for the account of the producer and remit the assessment to the Board. The assessment would be used for the payment of expenses in administering the order (including provision for a reasonable reserve and the administrative costs incurred by the Department after an order has been promulgated). The rate of assessment to be prescribed by the order is set at 15 cents per hundredweight of milk for commercial use or the equivalent thereof, except that a milk producer or the producer's cooperative can receive credit for proven contributions of up to 10 cents per hundredweight of milk marketed to active, ongoing qualified State or regional dairy product promotion or nutrition education programs intended to increase consumption of milk and dairy products generally. Persons marketing milk of their own production directly to consumers would be required to remit the assessment directly to the Board in the manner prescribed by the order.

Subsection (h) provides for the order to require the Board to (1) maintain books and records as prescribed by the Secretary (which shall be available to the Secretary for inspection and audit), (2) prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, and (3) account for the receipt and disbursement of all funds entrusted to it.

Subsection (i) requires the order to authorize the Board, with the approval of the Secretary, to invest, pending disbursement under a plan or project, funds collected through assessments under this program only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

Subsection (j) provides for the order to prohibit funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental policy, or action except as provided by subsection (c)(5).

Subsection (k) requires that the order provide that each person receiving milk from farmers for commercial use must maintain

and make available for inspection such books and records as may be required by such order and file reports at the time, in the manner, and having the content prescribed by the order. Any such information shall be made available to the Secretary as is appropriate or necessary to the administration or enforcement of this subtitle, or any order or regulation issued under this subtitle. All information so obtained must be kept confidential by all officers and employees of the Department, and only such information as the Secretary deems relevant may be disclosed and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was obtained. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. The provisions of this subsection do not prohibit (1) the issuance of general statements, based upon the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any particular person, or (2) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any person violating the provisions of this subsection shall, upon conviction, be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if an officer or employee of the Board or the Department, shall be removed from office.

Subsection (1) provides that the order shall contain such other terms and conditions, not inconsistent with the provisions of this subtitle, as are necessary to effectuate the provisions of the order.

*Certification of organizations*

Section 114(a) requires that the eligibility of any organization to represent milk producers, for purposes of this subtitle, and to participate in the making of nominations to the Board, must be certified by the Secretary. The Secretary is authorized to establish eligibility criteria for this purpose and must certify any organization that meets these criteria. The Secretary's determination as to eligibility is final.

Subsection (b) provides for certification to be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary, including, but not limited to, the following:

(1) geographic territory covered by the organization's active membership;

(2) nature and size of the organization's active membership including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived;

(5) functions of the organization; and

(6) the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization are whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production or processing of fluid milk and dairy products and in the promotion of the nutritional attributes thereof.

*Requirement of referendum*

Section 115(a) provides that within the 60 period immediately preceding September 30, 1985, the Secretary must conduct a referendum among producers, who have been engaged in the production of milk for commercial use during a representative period (as determined by the Secretary), for the purpose of ascertaining whether any order then in effect shall be continued. The order must be discontinued unless the Secretary determines that the order is approved or favored by not less than one-half of the producers voting in the referendum, who during a representative period (as determined by the Secretary) have been engaged in the production of milk for commercial use. If continuation of the order is not approved or favored by a majority of the producers voting in the referendum, the Secretary must terminate collection of assessments under the order within 6 months after the Secretary determines that the action is favored by a majority of the producers voting in the referendum.

Subsection (b) provides that the Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Government in connection with the conduct of any referendum under this section and section 116, except for the salaries of Government employees.

*Suspension and termination of orders*

Section 116(a) requires that after September 30, 1985, the Secretary must terminate or suspend the operation of any order issued under this subtitle or any provision thereof whenever the Secretary finds that the order or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitile.

Subsection (b) provides that following September 30, 1985, the Secretary may conduct a referendum at any time, but must hold a referendum on request of a representative group comprising 10 percent or more of the number of producers subject to the order, to determine whether the producers favor the termination of suspension of the order. The Secretary must suspend or terminate the order and collection of assessments under the order within 6 months if the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

Subsection (c) provides that the termination or suspension of any order, or any provision thereof, is not to be considered an order within the meaning of this subtitle.

*Cooperative association representation*

Section 117 provides that whenever the Secretary is required to conduct a referendum, the Secretary shall consider the approval or disapproval by any cooperative association of producers, engaged in marketing milk or the products thereof as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers. If, however, a cooperative association of producers elects to vote on behalf of its members, the cooperative association must provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. Such information must inform the producer of procedures to follow to cast an individual ballot within the period of time established by the Secretary for casting ballots. The notification must be made at least 30 days prior to the referendum and include an official ballot. The individual ballots would be tabulated by the Secretary and the vote of the cooperative association adjusted to reflect the individual votes.

*Petition and review*

Section 118(a) authorizes any person subject to an order to file with the Secretary a petition stating that the order or any provision of the order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or exemption therefrom. The petitioner must be given an opportunity for a hearing upon the petition, in accordance with regulations issued by the Secretary. After the hearing, the Secretary would make a ruling which would be final, if in accordance with law.

Subsection (b) provides that the district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review the ruling on any petition filed under subsection (a) of this section, if a complaint is filed within 20 days from the date of entry of the ruling. Service of process shall be made by delivering a copy of the complaint to the Secretary. If the court determines that the ruling is not in accordance with law, the proceedings would be remanded to the Secretary with directions either (1) to make such ruling as the court determines to be in accordance with law, or (2) to take such further proceedings as, in the court's opinion, the law requires.

*Enforcement*

Section 119(a) vests the district courts of the United States with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any civil action authorized to be brought under this subsection must be referred to the Attorney General for appropriate action, except for minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

Subsection (b) provides that any person who willfully violates any provision of any order issued by the Secretary under this subtitle shall be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation and in the case of a willful failure to pay, collect, or remit the assessment as required by the order, in addition to the amount due, a penalty equal to the amount of the assessment on the quantity of milk as to which the failure applies. The amount of any such penalty shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Subsection (c) provides that the remedies provided in subsections (a) and (b) of this section are in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

*Investigations; power to subpena and take oaths and affirmations; aid of courts*

Section 120 authorizes the Secretary to make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this subtitle or of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records that are relevant to the inquiry. Attendance of witnesses and the production of any records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary, there to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punishable as a contempt of court. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

*Administrative provisions*

Section 121 provides that nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy products promotion organized and operating under the laws of the United States or any State, and that the provisions of this subtitle applicable to orders are applicable as well to amendments to orders.

*Separability*

Section 122 provides that if any provision of this subtitle or its application to any person or circumstances is held invalid, the validity of the remainder of this subtitle and of the application of such provision to other persons and circumstances shall not be affected thereby.

*Authorization*

Section 123 authorizes to be appropriated such funds as are necessary to carry out the provisions of this subtitle. The funds so appropriated are not available for payment of the expenses or expenditures of the Board in administering any provisions of any order issued under this subtitle.

SUBTITLE C—DAIRY REPORTS AND COTTON

*Reports*

Section 130 requires the Secretary to submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the following reports:

(1) Not later than July 1 of each year after the date of enactment of this title, an annual report describing the activities conducted under the dairy products promotion and research order issued under subtitle B of this title, and accounting for the receipt and disbursement of all funds received by the Board under such order, including an independent analysis of the effectiveness of the program;

(2) Not later than April 15, 1985, a report on the effectiveness of the paid diversion program carried out under section 201(d) of the Agricultural Act of 1949; and

(3) Not later than July 1, 1984, a report on the impact of applying nationally, standards similar to the current California standards for fluid milk products in their final consumer form. This report should include an analysis of such impact relative to: overall consumption trends, total per capita consumption, nutritional augmentation (particularly for young and older Americans), implementing improved interagency enforcement of minimum standards to prevent consumer fraud and deception, multiple component pricing for producer milk, reduced Commodity Credit Corporation purchases, consistency of product quality throughout the year and between marketing regions of the United States, and consumer prices.

*Cotton*

Section 131 provides that notwithstanding any other provision of law, in order to acquire a sufficient quantity of upland cotton to carry out the payment-in-kind (PIK) program for the 1983 crop of upland cotton, the Secretary of Agriculture shall solicit bids from producers of upland cotton, without limiting the amount of such bids, for sale to the Commodity Credit Corporation of cotton pledged by such producers as security for nonrecourse loans made under section 103(g)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444(g)(1)).

Under this bidding procedure the Secretary would be required to accept all bids submitted by cotton producers unless a bid exceeds, on a percentage basis, the amount of the highest bid received and accepted by the Secretary under the same bidding procedure for feed grains. This requirement would continue until the Secretary acquires sufficient stocks of cotton to carry out the PIK program for the 1983 crop of upland cotton, or until the Secretary has deter-

mined and made available to producers a reasonable period of time, of not less than 2 weeks, for purposes of submitting bids. The Secretary is also required to give any producer who has previously submitted a bid the opportunity to nullify such bid if the producer agrees to submit another bid under the terms of this section.

Under the bidding procedure for feed grains, producers of corn and sorghum submitted bids to CCC specifying the amount of the commodity which they desired to receive from CCC as compensation for reducing the loan collateral and selling the commodity to CCC for PIK purposes. From all of the bids submitted by feed grain producers, the Secretary accepted bids in amounts of up to 20% of the commodity offered for sale.

## Title II—Tobacco

*Short title*

Section 201 provides that title II of the bill may be cited as the "Tobacco Adjustment Act of 1983".

*Price support adjustments*

Section 202 makes several changes in the price support program for tobacco. Effective for the 1983 and subsequent crops of tobacco, the bill would amend section 106 of the Agricultural Act of 1949 to add a new subsection (e).

New subsection (e)(1) provides that for the 1983 crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers the support level in cents per pound will be the level in cents per pound at which the 1982 crop was supported.

New subsection (e)(2) provides that for the 1984 crop of Flue-cured tobacco, the price support level for Flue-cured tobacco in cents per pound will be the level in cents per pound at which the 1982 crop was supported.

New subsection (e)(3) provides that for the 1985 crop of Flue-cured tobacco, the price support level for Flue-cured tobacco will be the level in cents per pound at which the 1982 crop was supported, plus or minus, respectively, the amount by which (1) the support level for the 1985 crop, as determined under section 106(b) of the Agricultural Act of 1949, is greater or less than (2) the support level for the 1984 crop, as determined under section 106(b), as that difference may be adjusted by the Secretary under section 106(d) if the support level under clause (1) is greater than the support level under clause (2). The bill provides an exception to this general rule in the case of the 1985 crop if the support level as determined under section 106(b) for the 1985 crop would not be more than 5 percent greater than the support level as determined under section 106(b) for the 1984 crop. In such a case, the price support level for the 1985 crop of Flue-cured tobacco would be the level in cents per pound at which the 1982 crop was supported.

New subsection (e)(4) provides that for the 1984 and 1985 crops of any kind of tobacco (other than Flue-cured tobacco) for which marketing quotas are in effect or are not disapproved by producers, the Secretary must establish the support level at such level as will not narrow the normal price support differential between Flue-cured tobacco and such other kind of tobacco. Before establishing the sup-

port level under this paragraph for any kind of such tobacco, the Secretary must publish in the Federal Register a notice of the level he proposes to establish and give an opportunity for the public to comment on the proposal. In determining the level to be established under this paragraph for a particular kind of tobacco, the Secretary must take into consideration the cost of producing such kind of tobacco, the supply and demand conditions for such kind of tobacco, the comments received in response to the public notice of the proposal, and such other relevant factors as the Secretary determines appropriate.

New subsection (e)(5) provides that for the 1986 and each subsequent crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pounds at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which (1) the support level for the crop for which the determination is being made, as determined under section 106(b) of the Agricultural Act of 1949, is greater or less than (2) the support level for the immediately preceding crop, as determined under section 106(b), as that difference may be adjusted by the Secretary under section 106(d) if the support level under clause (1) is greater than the support level under clause (2).

*Elimination of double assessment; use of fund*

Section 203 amends section 106A of the Agricultural Act of 1949 to make paragraph (2) of subsection (d) applicable only to the 1983 crop. Section 106A(d)(2) currently provides that each owner and operator of any farm who leases all or any part of a Flue-cured tobacco acreage allotment or marketing quota must make contributions to the no net cost tobacco fund in the association that makes price support available to producers of Flue-cured tobacco. The bill has the effect of requiring contributions to the no net cost tobacco fund by owners and operators who lease Flue-cured tobacco only for the 1983 crop.

Section 203 also amends section 106A(d)(3) of the Agricultural Act of 1949 to specify that use by an association (through which price support is made available to producers and that has established a no net cost tobacco fund within the association) of moneys in the fund, including interest and other earnings, for the purposes of reducing the association's outstanding indebtedness to the Commodity Credit Corporation associated with the 1982 and subsequent crops of quota tobacco and making loan advances to producers is authorized. Also, use of such moneys for any other purposes that will be mutually beneficial to producers who contribute to the fund and to CCC shall, if approved by the Secretary, be considered an appropriate use of the fund.

*No net cost tobacco account—Flue-cured tobacco*

Section 204 amends section 106B(a) of the Agricultural Act of 1949 to delete the provision in paragraph (1) excepting from the definition of "association" an association that has entered into an agreement to make price support available to producers of Flue-cured tobacco and to delete the provision in paragraph (5) excepting Flue-cured tobacco from the definition of the term "tobacco".

Deletion of these provisions would allow an association carrying out the price support program for Flue-cured tobacco to request the Secretary of Agriculture to establish a no net cost tobacco account in the Commodity Credit Corporation to which producer assessments would be paid to ensure a no net cost tobacco program (except for administrative costs) in lieu of a no net cost tobacco fund within the association to which producers would make contributions to ensure such a no net cost program.

*Lease and transfer of Flue-cured tobacco; forfeiture of allotment and quota*

Section 205(a) amends section 316(a)(1) of the Agricultural Adjustment Act of 1938 in several respects effective for the 1984 and subsequent crops of tobacco.

The current provisions of section 316(a)(1) are restated in a new subparagraph (A)(i) and revised to delete the requirement that the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support program, must permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under the Act to lease and transfer the allotment or quota to another owner or operator of a farm in the same county.

The bill adds a new subparagraph (A)(ii) relating to the lease and transfer of Flue-cured tobacco acreage allotment and quota. New subparagraph (A)(ii) provides that the Secretary shall, only with respect to the 1984 through 1989 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under the Act to lease and transfer all or any part of the allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota. Except as otherwise provided in paragraph (2)(A) of section 316(a) for the 1984 through 1986 crops of such tobacco (relating to fall leasing in the case of a natural disaster), the lease and transfer would be permitted only if the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statment certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangment which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease. The parties must also certify in such written statement that the lease and transfer is otherwise in compliance with the provisions of the section.

The bill provides that, with respect to the 1987 through 1989 crops of Flue-cured tobacco, lease and transfer of allotment and quota shall not be permitted if the unadjusted Flue-cured tobacco farm marketing quota established under the Agricultural Adjustment Act of 1938 for the lessor's farm exceeds 3,000 pounds. This exception is based on the basic farm marketing quota rather than the effective quota. The basic quota is the quota assigned to the farm without regard to overmarketings or undermarketings. The

bill further provides that, with respect to the 1990 and subsequent crops of Flue-cured tobacco, the Secretary may not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas.

The bill adds a new subparagraph (B) to section 316(a)(1) providing penalties for making a false statement in the certification that must be filed with the lease agreement. The bill provides that if, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A), (1) in the case of a knowingly false statement by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program on the lessee's farm will be considered null and void as of the date approved by the county committee, or (2) in the case of a knowingly false statement by the lessor, the Flue-cured tobacco allotment next established for the form of the lessor will be reduced by the percentage which the leased allotment or quota of the total Flue-cured allotment or quota for the farm. Notice of any determination made by the county committee under this provision must be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with the determination, the lessee or lessor may request, within 15 days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of the Agricultural Adjustment Act of 1938.

Section 205(b) amends section 317 of the Agricultural Adjustment Act of 1938, effective for the 1984 and subsequent crops of tobacco, to add a new subsection (k) providing for forfeiture of Flue-cured allotment and quota that is not used.

New subsection (k) provides that, notwithsatnding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under the Act must forfeit the allotment or quota after February 15 of any year immediately following the last year of the 3-year period (immediately preceding the year for which the determination is being made) in which Flue-cured tobacco has not been planted or considered planted on such farm during at least 2 years out of such 3-year priod.

The allotment or quota would be forfeited if, after notice and opportunity for a hearing, the appropriate county committee determines that the person involved knowingly failed to comply with the provision. Any allotment or quota so forfeited would be reallocated by the county committee for use by active Flue-cured tobacco producers (as defined in section 316(g)(1) of the Act) in the county involved.

Notice of any determination made by the county committee under this provision must be mailed, as soon as practicable, to the person involved. If such person is dissatisfied with the determination, such person may request, within 15 days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of the Act.

*Conforming amendments*

Section 206 makes various amendments to section 316 of the Agricultural Adjustment Act of 1983 to conform that section to the

other changes made in the bill relating to lease and transfer of Flue-cured acreage allotments and marketing quotas.

*Mandatory sale of allotments and quotas by non-farming entities*

Section 207(a) amends section 316A(a) of the Agricultural Adjustment Act of 1938 to make 2 changes in that provision.

The first change would modify the criteria used to determine whether a person who owns a farm for which a Flue-cured allotment or quota is established must sell or forfeit that allotment or quota. The bill deletes the criteria that such a person who is not significantly involved in the management or use of the land for agricultural purposes must sell or forfeit it. In lieu thereof, the bill would require sale or forfeiture if such person does not use the land in the farm for agricultural purposes.

The second change would delay from December 1, 1983 to December 1, 1984 the date by which persons subject to section 316A(a) would have to sell their Flue-cured allotment or quota or forfeit it to the Secretary.

Section 207(b) amends section 316B(a) of the Agricultural Adjustment Act of 1938 to make the same changes with respect to the mandarory sale of Burley tobacco quota by non-farming entities.

*Flue-cured marketing quota announcement date*

Section 208 amends section 317(d) of the Agricultural Adjustment Act of 1938 to change the date by which the Secretary must proclaim or announce the national marketing quota, the national acreage allotment, and the national average yield goal for any kind of tobacco under an acreage-poundage program. In the case of Flue-cured tobacco, the bill changes this date from December 1 to December 15. The announcement date for other tobacco under an acreage-poundage program would be changed from February 1 to March 1.

*Reserve for new Flue-cured tobacco growers; farm yield*

Section 209(a) amends section 317(e) of the Agricultural Adjustment Act of 1938 to increase from 1 percent to 3 percent the portion of the national acreage allotment that may be set aside by the Secretary of Agriculture in each marketing year for which acreage-poundage quotas are in effect under section 317 as a reserve for the purpose of making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms. The bill also provides that not less than two-thirds of such reserve must be for new farms.

Section 209(b) amends section 317(e) of the Agricultural Adjustment Act of 1938 to delete the requirement that the farm yield for any farm for which a new farm acreage allotment is established under section 317 may not exceed the community average yield. The farm yield for a new farm would continue to be determined, as under current law, on the basis of available productivity data for the land involved and farm yields for similar farms.

*Determination of Flue-cured tobacco planted acreage*

Section 210 amends section 317 of the Agricultural Adjustment Act of 1938, as amended by section 205 of the bill, to add a new

subsection (1). The new subsection would require the Secretary of Agriculture to determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under section 317.

*Burley quota reduction increase*

Section 211 amends section 319(c) of the Agricultural Adjustment Act of 1938 to increase from 5 percent to 15 percent of the estimated utilization and exports of Burley tobacco the downward adjustment the Secretary of Agriculture may make in the national marketing quota for Burley tobacco when the Secretary determines that such an adjustment is desirable for effecting an orderly reduction of supplies to the reserve supply level.

Section 211 also amends section 319(e) of the Agricultural Adjustment Act of 1938 to provide that the national factor used by the Secretary to determine the farm marketing quota may not be less than 85 percent (instead of 95 percent as currently). The farm marketing quota for each year is determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota by the sum of the farm marketing quotas for the immediately preceding year.

*Limit on the lease of Burley quota; prohibition against fall leasing*

Section 212 amends section 319(g) of the Agricultural Adjustment Act of 1938, effective for the 1984 and subsequent crops of tobacco, to reduce from 30,000 pounds to 15,000 pounds the amount of Burley tobacco quota that may be leased and transferred to any farm. The bill also provides that a lease and transfer of Burley tobacco quota will not be effective for any crop year unless a record of the transfer agreement is filed with the county committee not later than July 1 of that crop year.

*Combination of farms with Burley quota*

Section 213(a) makes a conforming amendment to section 318(b) of the Agricultural Adjustment Act of 1938 to reference new section 379(b) of that Act.

Section 213(b) amends section 379 of the Agricultural Adjustment Act of 1938 to designate the current provisions of section 379 as subsection (a) and to add a new subsection (b). New subsection (b) provides that in any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary of Agriculture must permit such tracts to be combined as one farm if (1) a Burley tobacco poundage quota is established for one or more of such tracts and (2) the county committee determines that such tracts will be operated as a single farming unit.

*Review of Burley tobacco imports*

Section 214 provides that the Secretary of Agriculture must review, pursuant to section 22 of the Agricultural Adjustment Act, as amended, the effects of imports of Burley tobacco on the Department of Agriculture's Burley tobacco price support program. This review would be required whenever (1) the level of price support for any crop of Burley tobacco is increased by less than 65 percent

of the amount that it would have otherwise been increased if the level of price support would have been determined in accordance with section 106(b) of the Agricultural Act of 1949 or (2) stocks of Burley tobacco held by producer-owned cooperative marketing associations having loan agreements with the Commodity Credit Corporation exceed 20 percent of the national marketing quota proclaimed by the Secretary for any such crop of Burley tobacco.

## COMMITTEE CONSIDERATION

### HEARINGS

*Dairy*

On Wednesday, April 13, and Thursday, April 14, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices held hearings on the dairy price support program. The hearings were chaired by Senator Thad Cochran.

In his opening statement, Senator Cochran reviewed the legislative dynamics that brought about the 50-cent assessment, and addressed the overwhelming opposition to the assessment. Senator Cochran stated that the hearings were being held to find a better way to encourage farmers to reduce production and to encourage consumers to increase consumption.

Senator Patrick Leahy, in his opening statement, outlined the factors that led to the massive dairy surplus, including low grain prices, a poor cull cow market, and low demand for milk and milk products. He urged the Administration to become more involved in participating in the dairy debate, and opposed the idea of cutting the support price.

The first panel to testify was composed of Norman Barker, President of the National Milk Producers Federation; Morris Lee Scott, Associated Milk Producers of Hernando, Mississippi; Tom Townsend, Senior Vice President, Mid America Dairymen, Inc.; Elwood Kirkpatrick, President, Michigan Milk Producers Association; and Clyde Rutherford, President, Dairylea Cooperative, Inc. This panel generally spoke in favor of the plan proposed by the National Milk Producers Federation.

Mr. Barker outlined the Federation's plan in his testimony. It calls for the maintenance of the present $13.10 price support, and a two-tier price system based on a marketing base determined by the average of marketings during the 1980–81 and 1981–82 marketing years. A producer who lowers his percentage below his base would receive $10 per hundredweight for the difference between his marketings and his base. A producer who markets more than his base would receive a very low price, the Dairy Compliance Price, for the milk marketed above the base. However, in no case would this Dairy Compliance Price represent a reduction in the blend of the two prices of more than $1.00 for all milk marketed by the producer. A producer who maintains production at his base level would continue to receive the regular price for the milk he markets.

The plan also authorizes the development of a national producer-funded program for the promotion of milk and dairy products. The program would be funded by a mandatory assessment of 15 cents per hundredweight on all milk marketed.

Members of the panel supported the Federation plan, pointing out that compliance is voluntary, and that a farmer would not be affected by maintaining production at his base level. They also said that the program would be simple to implement and would take about 2 or 3 months to put into place.

The bulk of Mr. Kirkpatrick's testimony addressed the National Dairy Promotion Program. He pointed out that the mandatory nature of the 15-cent assessment was reasonable and necessary in light of the failure of past voluntary programs. Since all dairymen benefit from product promotion, all should be made to bear the cost equally.

In addressing the value of promotion, Mr. Kirkpatrick referred to a USDA Economic Research Service study. In a May 1972–73 study period, it was determined that a $12 million expenditure nationally would have increased cheese consumption 244 million pounds annually; and a promotion program costing $18 million would have raised butter sales by 450 million pounds milk equivalent.

The second panel of witnesses included Albert McDonald, Alabama Commissioner of Agriculture and Industries; Bucky Jones, Dairymen, Inc., Smithdale, Mississippi; William Boardman, Dairy Farmers, Inc., Orlando, Fla.; Herbert L. Forest, Alabama Farm Bureau Federation, Montgomery, Alabama; and Richard Trawick, Southern Milk Sales, Inc., Montgomery, Alabama.

Members of this panel were also unanimous in their opposition to the assessment, which Mr. Jones labeled a "tax." They also called the incentive program to reduce production a "crash" program that would have a number of adverse consequences. First, according to Mr. McDonald, it would result in a large dispersal of cull cows, thus depressing cattle prices. Second, it would not result in any increased consumption, since it would not reduce consumer prices. Third, and most importantly, there was a serious concern voiced by these Southeast representatives that the Dairy Compliance Program would result in a drying up of local milk produced to supply the fluid market. Possible shortages in some areas of the country, such as the South, would create the necessary of shipping large volumes of class I fluid milk from the upper Midwest to these regions of shortage. As a result, consumers in the southern regions would face an increase in price for fluid milk ranging from 15 to 35 cents per gallon in the supermarket.

Members of this panel backed a plan with three features. First they supported a $1 reduction in the support price. Mr. Boardman added that the Secretary should be authorized to reduce the support price an additional 50 cents if necessary. Second, they advocated a freeze, or at least some floor price, on the price of class I fluid milk. This would be to avoid any local shortages of fluid milk and prevent the necessity of shipping costs. Third, Mr. McDonald said the plan should include the establishment of a formula, allowing the Secretary to raise or lower the support price based on the anticipated Commodity Credit Corporation purchase of dairy stocks.

All members of the panel agreed that the price-cut plan would be simple. Mr. Boardman gave a historic analysis, showing that cuts in the support price have previously led to lower production and lower CCC purchases, thus cutting government costs.

A third panel, also uniformly opposed to a base plan and favoring a price support reduction plan, was comprised of Steve Conerly, President, Dairy Division, Pet, Inc.; Ben Zarda, President, Zarda Brothers Dairy, Inc., Shawnee, Kan.; E. Linwood Tipton, Senior Vice President, Milk Industry Foundation/International Association of Ice Cream Manufacturers; Donald Randall, National Independent Dairy-Foods Assocation; and John Benjamin Carroll, Dairy Farmers Distributors, Chitenango, N.Y.

Mr. Tipton called for a $1 reduction in the support price plus authority for an additional 50-cent reduction if necessary. He said such a program would reduce CCC purchases from the present 15.4 billion pound level to about 7.7 billion pounds in fiscal year 1984 and to about 4.1 billion pounds in fiscal year 1985. At that point, CCC net costs would be about half a billion dollars. He supported a branded promotion campaign, as opposed to nonbrand advertising, and called for use of CCC funds to partially reimburse public institutions especially schools to increase the utilization of dairy products.

In addition to opposing base or quota plans, Tipton also opposed the idea of increasing the minimum total solids content of fluid milk because there is no evidence suggesting that would in fact increase milk consumption.

Mr. Zarda endorsed the same price support reduction scheme, and said that a $1.50 lower milk price would save consumers $1.8 billion a year while increasing dairy sales and decreasing the surplus. Mr. Zarda opposed any new system of dairy bases, quotas and/or paid diversions as being very complicated and requiring more regulation and more bureaucracy which is not needed.

Mr. Randall called for the $1 price support reduction, and advocated giving the secretary suthority to reduce the price support an additional $1 if surpluses exceed 4 billion pounds in any 12-month period. He opposed the production reduction incentive plans because "dairy farmers, like small businessmen, must be held accountable for over-production mistakes. They must meet the standard of reasonable and prudent decisionmaking."

Testifying on the first panel of the afternoon session were James Graham, North Carolina Commissioner of Agriculture; Jim Rikert, Agri-Mark, Inc.; Pat Patterson, Green Mountain Federation, Barre, Vermont; Paul Stone, Orwell, Vermont; Phil Nyberg, League of California Milk Producers; and Fred Duoma, Milk Producers Council and the Southern California Dairy Association, Ontario, Ca.

Mr. Graham told the subcommittee they faced a tough task, that he had no specific proposal, but that the assessment was "clearly the wrong approach to the problem, and the end result may well be the long-term decline of the dairy industry in many sections of the country." In coming up with a dairy proposal, he said, the Committee will have to look at regional and local imbalances in production and consumption. "If you force all producers to reduce production, you will not be fair because not all areas have surpluses of products. The price support level may be adjusted since regional and area differences in production and demand can be balanced by market influences."

Other panel members were in sharp disagreement. Mr. Stone advocated a paid diversion program similar to the payment-in-kind

program for grain. He alluded to the March 1983 survey conducted by Hoard's Dairyman which indicated "that enough dairymen will participate in a voluntary paid diversion program to curb overproduction. He said only a severe price support reduction, such as $2–$3 per hundredweight would reduce production quickly. The $13.10 support level, which has existed since October of 1980, has fallen from 75 percent of parity at that time to 63 percent of parity now.

Mr. Douma advocated a more gradual price support reduction: 50 cents per hundredweight immediately, 25 cents on October 1, 1983 and 25 cents on April 1, 1984. He testified that a dollar drop in the dairy price support is the most responsible direction Congress can and should take. This would allow dairymen to plan their production with the certain knowledge of lower prices in the future. Reduction of the replacement herd could take place over the next several years. If feed prices were to increase as anticipated in the next 12 to 24 months because of the PIK program, a much faster decline in milk production would be realized. He said that any other program would cost the consumers who live further away from the major production areas more for every gallon of milk purchased. He also opposed a freeze on class I milk, preferring to let the open market determine the price level for fluid milk in each marketing order.

Mr. Nyberg supported the development of an incentive plan, although he stressed that it must be voluntary. His insistence on the voluntary basis of the program was due to the necessity of a base system in such a plan, and he said he had reservations about national bases and quotas.

He also supported the establishment of a 50-cent per hundredweight assessment for the purpose of helping to reduce both production and government outlays for dairy product purchases. He stated that this would be the most responsible way to adjust a producer's income during this period of time because, not only does it provide the economic disincentive necessary, but it provides assistance to the Federal government as they continue the vitally important role of maintaining industry stability with the price support and commodity purchase program.

Testifying on the next panel were Wynn Zundel, Utah Farm Bureau Federation; Don Haldeman, President, Wisconsin Farm Bureau Federation; Ralph Mitzel, New York Farm Bureau, and Howard H. Reilly, New York State Grange.

Again, a variety of proposals emerged. Mr. Zundel spoke against the assessment, saying it is discriminatory, encourages increases in cow numbers and milk production, and penalizes dairy producers for over-production without helping consumers realize lower prices. He urged the Committee to adopt the American Farm Bureau's adjustable support price proposal.

Mr. Haldeman opposed a price support reduction on the basis that it would not drop government costs quickly, not treat all dairy producers equally, nor increase consumption or reduce production fast enough. He advocated an incentive program providing a $10 per hundredweight payment for milk not produced, the cost of which would be partially funded by a 50-cent per hundredweight contribution on all milk produced.

Mr. Mitzel said a dairy program should maintain a viable price support, give correct and long-term signals to the dairy industry, relate the price support to the market situation, stimulate consumer demand and provide a mechanism for the support price to increase when surpluses are reduced. The plan he outlined would enact a price support program which would allow the support level to adjust according to the amount of net dairy products purchased by the government. The base level would be set at $11.60. It would reach that level on July 1, 1984, through a series of 25-cent per hundredweight reductions.

He also supported a national dairy promotion program to be financed from a 15-cent per hundredweight deduction on the blend price paid to producers. He also called for an increase in the Food and Drug Administration minimum standards for fluid milk to assure a better tasting and more nutritious product while reducing government surpluses of non-fat dry milk.

Mr. Reilly outlined three objectives for a dairy program. First, reduce surplus milk production; second, reduce government expenditures for dairy products; and, third, maintain the dairy price support program with minor adjustments. To that end, he suggested maintaining the existing class I price and lowering the class II price until supply and demand achieved an acceptable balance. Among the other ideas he supported were raising minimum standards for solids not fat in fluid milk, pricing producer milk on the basis of end-product value, increasing export sales of dairy products, and increasing promotion of dairy products.

On Thursday, April 14, the subcommittee first heard testimony from Senators Proxmire, Kasten, and Thurmond.

Senator William Proxmire testified in support of S. 509, which he introduced. The bill sets up a Voluntary Incentive Program under which the $13.10 per hundredweight support price is maintained. It grants the Secretary authority to deduct 50 cents per hundredweight if he estimates that CCC purchases will exceed 5 billion pounds milk equivalent. Other provisions include a repeal of the authority to deduct an additional 50 cents per hundredweight; incentive payments of $10.00 per hundredweight to producers who reduce their production below base, using calendar year 1982 as the base; a requirement that when the Secretary levies a 50-cent deduction, he must allow any dairy producer to contract with the ASCS to reduce his anticipated milk marketings from his base; a requirement that ASCS pay the producer one-half of the incentive payment within 30 days of signing the contract; a requirement that participating producers reduce their milk marketings between 5 and 30 percent of their 1982 levels.

Senator Proxmire claimed the plan would involve a minimal degree of Federal government regulation and administrative cost, be simple to understand and administer, and be wholly voluntary.

Senator Robert Kasten, a co-sponsor of S. 509, said he is willing to work with the dairy industry, dairy farmers, and other Senators in drafting compromise legislation. He said such legislation, though, should contain some form of incentive plan.

Senator Strom Thurmond, spoke in favor of S. 491, which he introduced. The bill repeals the assessment and reduces the support price by 50 cents, to $12.60 per hundredweight. Senator Thurmond

said the bill would remove any artificial government incentive for dairy farmers to overproduce and lower the price of fluid milk to the consumer.

Senator Thurmond also said he was not wedded to his proposals, but said that any dairy legislation coming out of the committee should contain a repeal of the assessment and a reasonable, effective cut in the price support in order to reduce production, increase consumption and reduce the surplus.

He said the committee should also consider placing a cap on total expenditures for the milk price support program; establishing an improved market promotion program, financed by a reasonable assessment; increasing the minimum standards for solid, non-fat content in fluid milk; implementing a fair milk base plan for individual dairy producers.

Richard Lyng, Deputy Secretary of Agriculture, traced the efforts of the Reagan Administration in trying to deal with the dairy program. He discussed the program that USDA supported last year, calling for discretionary authority for the Secretary to establish a price support level as needed to bring production under control, and amendments allowing the CCC to donate dairy products overseas and permitting domestic donation of the products to needy households. However, Congress rejected that and instead passed the assessment plan, which, he said, has failed to solve the problem.

He said that the Administration would support a dairy program which embraces the following principles: (1) allow freedom of initiative for an individual dairyman; (2) maintain the basic type of program that has served producers and the industry so well thus far; (3) lower dairy surpluses while reducing milk production and increasing consumption; (4) be simple to administer and easily understood by farmers; and (5) give the Secretary the flexibility over time to adjust the program to changing supply and demand conditions.

On the next panel, both Robert Mullins, Legislative Director of the National Farmers Union, and Ed Graf, Assistant to the President, National Farmers Organization, spoke in favor of S. 509, the Voluntary Incentive Program. Mr. Mullins also said the NFU would support a research and promotion program, under certain conditions.

Robert Fredericks, Legislative Director of the National Grange, testified against the 50-cent assessment and a reduction in the support price, where the price is used as the sole criteria in reducing the oversupply. He said the Grange would favor a dairy price support program containing provisions to reduce production, such as quotas on a national excess base plan. He said the Grange could support any plan meeting the criteria of balancing supply with current demands, providing adequate income incentives to gain the necessary compliance, distributing the cost of the self-help dairy program equally to all producers in proportion to production, and reducing the cost of the Program to the U.S. Treasury.

John Datt, Director of the Washington Office, American Farm Bureau Federation, recommended the repeal of the current assessments and the granting of authority to the Secretary to establish a support price level at not less than $11.32 per hundredweight.

Mr. Datt said the Farm Bureau opposes any form of base or quota plans, which he said fail to address the fundamental problem of overexpansion. He also pointed out that there are fundamental differences between the paid diversion programs for the basic commodities and the proposed program for dairy. Current paid diversion programs for grains and cotton do not provide price support for nonparticipants. Current dairy proposals, however, envision that a form of a paid diversion program would be in addition to a support price of $13.10 per hundredweight under all milk prices. He stated that as long as the support price for any or all milk is maintained at $13.10 per hundredweight, the current overproduction problem will not be resolved.

The final panel was composed of Ellen Haas, Executive Director, Public Voice for Food and Health Policy, and Rodney Leonard, Executive Director, Community Nutrition Institute.

Ms. Haas said the plan most advantageous to consumers would be a reduction in the support price of between $1 and $1.50 per hundredweight. She said such an approach addresses the surplus problem, provides a major incentive for consumers to increase their purchases of dairy products, and involves virtually no additional administrative expense, burden or bureaucracy.

Mr. Leonard said the present problem is due largely to the fact that the dairy industry has been sheltered from market forces by the classified pricing system. He favored a reduction in price support levels by $2.00 per hundredweight, a lifting of all regulations and regulatory practices that isolate the dairy producer from the needs of the consumer, and a phasing out of the classified pricing system.

*Tobacco*

The Committee on Agriculture, Nutrition, and Forestry held a hearing on proposed changes in the tobacco program on June 14, 1983.

Twenty-nine witnesses appeared before the Committee representing a wide diversity of interests in all aspects of the tobacco program. These included 19 associations, the Commissioner of Agriculture for the State of South Carolina, the Department of Agricultural Economics of the University of Kentucky, and the U.S. Department of Agriculture. Also offering testimony was the Honorable Howard M. Metzenbaum, Senator from Ohio.

Senator Metzenbaum discussed the bill recently introduced by Senator Garn and himself, S. 1179, the Tobacco Deregulation Act of 1983. Senator Metzenbaum further outlined his opposition to the tobacco program due to two primary issues: that the allotment system is contrary to free enterprise and, secondly, that our national policy is inconsistent when one agency of the Government is trying to educate citizens about the dangers of smoking while another agency is encouraging the production of tobacco.

Senator Huddleston responded to the criticisms of the tobacco program raised by Senator Metzenbaum. He stated that a control mechanism for the growing and marketing of tobacco is not essentially different than the regulatory controls Congress has imposed over other industries.

As for the health issue, Senator Huddleston stated that neither the Government nor the tobacco program encourages the use, growth, or the promotion of tobacco. Senator Huddleston further stated that the elimination of the program would be counterproductive to the idea that smoking ought to be reduced. Without the controls inherent in the program, tobacco products would be less costly, encouraging more people to consume them.

Senator Huddleston pointed out that unless there is an outright prohibition on the sale of tobacco products in this country, there should be a program of controls that allows for the benefits derived from growing tobacco to be spread among a greater number of producers than would otherwise be the case.

Hoke Leggett, Associate Administrator of the Agricultural Stabilization and Conservation Service, testified on behalf of the U.S. Department of Agriculture. He related to the Committee the extensive loss of export markets for U.S. tobacco over the past decade and explained that these losses were due almost exclusively to the widening gap in the price between domestic and foreign tobaccos. Mr. Leggett cited the need for a change in the price support level to correct this situation.

Mr. Leggett stated the Department's support for legislation to lower or freeze the price support for Flue-cured tobacco. He also testified the Department favors a modification of the current arrangements for renting and leasing quotas. However, he cited several administrative problems with provisions designed to mandate that allotment owners share in the risk of producing tobacco.

Revisions made in the Committee bill will correct the administrative difficulties alluded to in Mr. Leggett's testimony. Subsequent questioning of Mr. Leggett indicated that his reservations have been adequately addressed in the Committee reported bill.

A panel of witnesses representing Flue-cured tobacco farmers consisted of Mr. Bill Little and Mr. Atlas Wooten of the North Carolina Farm Bureau Federation; Dr. Carlton Blalock of the Tobacco Growers Association of North Carolina; Mr. Robert Nash of the Georgia Farm Bureau, and Mr. Howard Moye of the United Tobacco Growers Association.

This group, with the exception of Mr. Moye, generally endorsed the proposed changes in the tobacco program. They felt the program was beneficial to tobacco growers and the changes were necessary for its continuation. The North Carolina Farm Bureau questioned the advisability of implementing the freeze for the 1983 crop and the North Carolina Tobacco Growers Association did not favor the elimination of lease and transfer, unless necessary, and only then if it were phased in gradually. Mr. Moye advocated the total deregulation of the tobacco program as being in the best interests of tobacco growers.

The first panel representing the interests of Burley tobacco producers and warehousemen was made up of Mr. Ray Mackey, President, Kentucky Farm Bureau Federation; Mr. Ed Sutton, President, Council for Burley Tobacco and representating the National Farmer Organization of Kentucky; Mr. Henry West, President, Burley Farmers Advisory Council; and Mr. Albert Clay, Burley Auction Warehouse Association. The general consensus of this panel was that there should be greater discretion with the Secre-

tary to reduce the national marketing quota for Burley tobacco and there should be a reduction in the amount a grower might lease from 30,000 pounds to 15,000 pounds. The first of these changes would reduce the surpluses now available in Burley tobacco. These witnesses, with the exception of Mr. Clay, were reluctant to endorse a price support freeze stating that the aforementioned changes will resolve the problem of surpluses. Mr. Clay supported the position that any change in the Flue-cured price support level should also be made effective for Burley.

The second Burley tobacco panel consisted of Mr. Joe McDaniel, President, Burley Tobacco Growers Co-op Association; Mr. Ernest Hillenmeyer of the Burley Leaf Dealers Association; Dr. Milton Shuffett of the Department of Agricultural Economics, University of Kentucky; Mr. Al Glass and Mr. Archie Bailey of the Virginia Farm Bureau Federation; and Mr. Jim Putnam, President of the Tennessee Farm Bureau Federation.

These witnesses were in general agreement with the first Burley panel in their support for greater discretion for the Secretary to make quota reductions and support for the reduction of the amount a producer may lease. The Virginia Farm Bureau Federation maintained that the same adjustment in the price support level that is made to Flue-cured tobacco be made to Burley. The Burley Leaf Dealers Association expressed concern about proposals to allow greater flexibility to Stabilization in the use of the No Net Cost Fund.

Another panel representing Flue-cured tobacco interests consisted of the Honorable Les Tindal, Commissioner of Agriculture for the State of South Carolina; the Honorable Lois Eargle, State Representative, State of South Carolina; Mr. Harry Bell, President of the South Carolina Farm Bureau; Mr. Laurie Lawson, Chairman, South Carolina Agriculture Commission; Mr. Jim Oliver, Master, North Carolina Grange; Mr. Jim Canoy of the United Tobacco Growers; and Mr. J. M. Jenkins, Chairman of the Flue-cured Tobacco Committee, Virginia Farm Bureau Federation.

This group, with the exception of Mr. Canoy, endorsed the proposals offered to change the tobacco program. It was their feeling that these changes are necessary to provide for a strong and efficient program in the future. Mr. Oliver stated, however, that the Grange does not support the elimination of lease and transfer, but if enacted, implementation should not occur before 1987. Mr. Canoy echoed the other representative of the United Tobacco Producers in calling for a deregulation of the tobacco program.

The last panel was composed of Mr. Kirk Wayne, President of Tobacco Associates; Mr. Fred Bond, General Manager, Flue-Cured Tobacco Cooperative Stabilization Corporation; Dr. Hugh Kiger, Executive Vice President, Leaf Tobacco Exporters Association; and Mr. William O. L. Myers, Managing Director, Burley Stabilization Corporation.

Mr. Wayne outlined the world tobacco situation and the problem confronting U.S. tobacco in international trade. Mr. Bond expressed support for legislation to require that allotment owners either grow their quota, share in the risk of growing it, or sell it. Further, he favored provisions in the proposed bill which would adjust the price support level for 1983, 1984 and possibly 1985.

Dr. Kiger expressed concern regarding provisions allowing Stabilization greater flexibility in the use of the No Net Cost Tobacco Fund. Mr. Bond responded to several inquiries from Dr. Kiger regarding the manner in which Stabilization might use these additional authorities. Mr. Myers expressed support for the positions set forth by other Burley tobacco witnesses relating to freezing the price support level for 1983 and 1984, increasing the percentage by which the Burley quota may be reduced from 5 percent to 15 percent, and decreasing the amount permitted to be leased-in from 30,000 pounds to 15,000 pounds. He also advocated a uniform method of packaging tobacco and a reduction in the surplus loan stocks of Burley tobacco.

## COMMITTEE MARKUP

The Committee met on June 15 and 16, 1983, to consider legislation making basic changes in the support programs for dairy and tobacco. The Committee had before it for consideration a committee print, setting forth the dairy compromise bill reported from the House Agriculture Committee, H.R. 1875, that would amend the dairy price support program and a committee print amending the tobacco program.

Following opening remarks by Chairman Helms, the Committee discussed and resolved certain questions regarding the mark-up procedures and the order of business.

The Committee then moved to consideration of the dairy bill.

Senator Melcher offered an amendment to reduce the importation of casein to a level no greater than 50 percent of the average annual imports of casein during January 1, 1977 through December 1, 1981. Noting a USDA study which indicates that the elimination of casein imports would reduce costs for the Government dairy price support program by $300 million, Senator Melcher concluded that his amendment would save the Government about $150 million.

Several Senators raised questions concerning the amendment, including its impact on consumer costs for items containing casein and on industrial users of casein.

Explaining the Administration's opposition to the amendment, Dr. William Lesher of the Department of Agriculture noted that the amount of casein imported into this country represents only a small portion of total milk products imported into this country. He indicated that adoption of the amendment would probably not save as much as $150 million, and stated that the one reason casein is not produced in the United States is because the United States supports the price of milk higher than other countries in the world, making it unprofitable to produce casein when the nonfat dry milk commonly used to make casein can be sold at a much greater profit. In addition, Dr. Lesher indicated that the USDA study on casein showed that the restriction of casein imports would not produce more of a market for nonfat dry milk, but would, instead increase the use of nonmilk substitutes—such as soybean products. He also pointed out that the International Trade Commission conducted an investigation into the issue of casein imports and con-

cluded they were not materially interferring with the dairy price support program.

After further discussion, on a vote of 9 to 9 the amendment was not adopted.

Senator Boschwitz offered three amendments aimed at modifying the dairy bill before the Committee.

The first amendment would change the base period used in the paid diversion program. Under the dairy bill before the Committee, a producer could choose to use either his production during the 1981/1982 period corresponding with the period of the diversion contract, or the average of his production during the corresponding periods of 1980/1981 and 1981/1982. Senator Boschwitz' amendment would change the base period provisions to allow a producer to use as his base, his marketings from one of the periods 1979/80, the 1980/81, or 1981/82 corresponding with the period of the producer's diversion contract. Senator Boschwitz explained that this amendment would protect those producers who reduced their production in the last couple of years in response to the surplus situation.

The second amendment offered by Senator Boschwitz would give the Secretary of Agriculture discretion to extend the paid diversion program for dairy for an additional 9 months. Senator Boschwitz indicated that this amendment would address what he believed to be the prevailing criticism of the dairy bill—that the diversion program does not last long enough.

The third amendment offered by Senator Boschwitz would require that the 50-cent reduction in the price support level, scheduled to go into effect on October 1, 1983, be foregone if producer sign up in the paid diversion program was great enough to result in at least an 8 percent decrease in production on a national level. In support of this proposal, Senator Boschwitz argued that a sign up large enough to eliminate the surplus would remove any need for the support price reduction. He also pointed out that making the price support reduction contingent upon the level of program sign up would encourage participation.

On behalf of the Administration, Dr. Lesher stated that the Administration opposes all three of Senator Boschwitz' amendments because they would make significant changes to the agreed upon compromise. Dr. Lesher stressed that there were already some provisions in the compromise that the Administration had great problems with and described the problems that each of these amendments presented.

Regarding the first amendment, Dr. Lesher pointed out that it would allow farmers who had lowered production in the past year or 2 to receive payment under the diversion program without making an actual reduction in their present level of production.

As to the second amendment, he noted that the administration has serious reservation about the paid diversion program to begin with, and believes that 15 months for the program, as provided in the bill, is a long enough test to see if it will work.

The third amendment, noted Dr. Lesher, would remove an important element from the production reduction feature of the bill. The price support reduction on October 1, 1983, he indicated, was neces-

sary to send the right signal to dairy producers in order to encourage reduced production.

Senator Hawkins asked several questions about the proposed amendments. The amendments were then defeated in block by a vote of 5 to 13.

Following the vote, Senator Leahy indicated that although there were a number of aspects of Senator Boschwitz' amendments which he approved of, he opposed them in order not to disrupt the compromise package worked out with the Administration.

When the Committee met on June 16, Senator Huddleston offered a package of amendments. Following a brief explanation by Committee staff, Senator Dixon objected to an amendment which required that promotion activities undertaken by the dairy promotion Board be on a generic basis only. He suggested that the amendment would be a significant departure from the compromise and might disrupt the delicate balance so carefully worked out and reflected in the provisions of the bill.

Senator Jepsen agreed, noting that the dairy promotion Board, would be made up of producers and would be able to decide for itself whether advertising should be conducted on a generic or brand basis.

Senator Hawkins noted that all segments of the dairy industry were not in agreement with this amendment, indicating that producer groups were divided on the issue.

Senators Leahy and Huddleston, however, indicated that they believed adoption of this amendment would not disrupt the compromise because the issue had not been discussed previously. They suggested that it had always been assumed that the promotion program would be conducted on a generic basis.

Senator Lugar moved to accept the package of amendments offered by Senator Huddleston without the generic promotion provision and an accompanying amendment calling for a study of the effectiveness of generic vs. brand advertising. The motion was approved without objection.

Senator Wilson offered an amendment clarifying and expanding a study included in the dairy bill that would examine the impact of changing fluid milk standards. Emphasizing the need to examine the possible affect on consumer prices, Chairman Helms suggested that the amendment be agreed to. The amendment was then approved without objection.

Following approval of this amendment, Senator Hawkins asked a series of questions of the administration, suggesting that the diversion payment of $10 was larger than necessary and expressing concern over possible milk shortages in some regions. There was also a general discussion of the possible consequences if courts again delayed or invalidated the collection of the 50-cent assessment following enactment of the bill.

Senator Leahy offered an amendment that would require the representation on the executive committee, appointed from the membership of the dairy promotion Board, reflect each of the different milk producing regions in the United States. This amendment, he pointed out, would result in the executive committee being set up on the same basis as the full Board, and would assure

that the different regions of the Nation would have fair representation in all of the decisions of the promotion Board.

Senator Leahy next raised a question regarding what he saw as a possible deficiency in the paid diversion program. He noted that a producer could already have gone out of business before the program begins, and still request payment for reducing his production.

Expressing his agreement that adoption of the diversion program should not create a windfall for producers who have terminated milk production before the program is even adopted, Senator Boschwitz expressed his concern about the impact of the program on producers who want to retire after the program is in place. Some discussion of these points ensued, after which the Committee expressed its intent that the program must be tightly controlled in order to avoid the program failing to reduce production. The Committee also agreed that the program should not be interpreted to allow producers who have decided to go out of business before knowing about the program to thereafter request that they receive diversion payments from the Secretary.

At Senator Boschwitz' initiation, a discussion of the operation of the provisions of the dairy diversion program relating to producer error rates insured. Dr. Lesher explained that the error rate must be as small as possible to allow the Secretary to predict the total reduction under the program. He also pointed out that the program only applies to milk marketed commercially, therefore a producer could ensure his compliance by using any excess milk for other purposes—to feed his livestock for instance.

Senator Boschwitz next raised a question about the scope of Senator Wilson's amendment regarding the dairy study. Expressing his concern about the impact of marketing orders on the producer price of milk in different regions of the United States, Senator Boschwitz asked if the reference to multiple component pricing for producer milk in the study includes examination of marketing orders. The Committee agreed that it does.

There being no further amendments for the Committee's consideration, the dairy provisions were then tentatively adopted as amended.

Senator Wilson proposed that the Committee adopt an amendment that would require the Secretary of Agriculture to solicit bids for the purchase of cotton, for use in the 1983 PIK program, from cotton producers, without specifying any limit on the amount of additional compensation. The amendment would further require the Secretary to give any producer, who had previously submitted a bid, the opportunity to nullify the provision bid, if the producer agrees to submit another bid to the Commodity Credit Corporation.

In the discussion of this amendment, Senators wilson and Cochran raised the point that the Department of Agriculture has exercised its option to purchase cotton from the 1982-crop of upland cotton under Government loan in order to fulfill PIK ogligations. The Senators noted that under the bidding process to purchase this cotton, USDA limited additional compensation to not more than 7 percent of the bales offered. Under similar programs for other commodities, such as wheat, USDA did not impose any limit on additional compensation. The Senators reasoned that cotton procuders should be treated the same as other producers, and therefore, the

Department, in using this option to acquire cotton for the PIK program, should do so without any limitation on the amount of additional compensation in the bidding proecess.

Dr. Lesher stated that the Department is opposed to the adoption of this amendment because there is not adequate time to go through the process of seeking new bids from cotton producers before the first entitlement date for PIK payments. He stated that the amendment was too open-ended and that there should be, at minimum, a limited time period for reopening the bidding process.

Following additional discussion by the Committee, Senator Wilson offered a modified version of his amendment which included a provision that specified that no bids shall be rejected, unless they exceed the amount bid under the same procedure for feed grains, until sufficient cotton to carry out the PIK program for 1983 is acquired, or until a reasonable bid period opportunity has been determined and made available by the Secretary, but in no event less than two weeks. Senator Wilson reiterated that his purpose was to ensure that cotton producers were treated the same as other producers in the bidding process to acquire additional commodities for PIK compensation.

Several Members raised further questions on the purpose of the amendment and the Administration was asked to comment. Dr. Lesher stated that if the purpose of the modified amendment is to provide the same treatment for cotton producers as was provided to wheat and feed grain producers, the amendment does meet that program, but indicated that the Department would still oppose its adoption.

By voice vote the Committee agreed to adopt the Wilson amendment, as modified, without objection.

Senator Heflin suggested that the Committee should also consider legislation to authorize the Secretary to issue marketing orders for eggs. This suggestion was discussed and it was agreed that early hearings and markup should be held on the matter.

Senator Pryor raised a proposal dealing with grain elevator bankruptcies. After a brief discussion it was agreed that hearings and markup should be held on the proposal.

During discussion of the tobacco provisions, Senator Huddleston offered an amendment relating to Burley and other types of tobacco. The amendment would freeze the price support level for the 1983 crop of Burley tobacco at the 1982 level and authorize the Secretary to adjust the price support level in 1984 and 1985. The amendment would establish price support levels for the 1983–1985 crops of fire-cured, dark air-cured, cigar filler and binder tobaccos using the same criteria as provided for Burley tobacco.

Under the amendment, the Secretary would be granted the discretion to reduce the quota for Burley from 5 to 15 percent beginning with the 1984 crop. The amendment also provides for changes in leasing of Burley quotas and requires that the Secretary, under certain conditions relating to a reduction in the price support level or a surplus of Burley tobacco in CCC stocks, undertake a review to ascertain whether imports are interfering with the domestic price support program.

Further, the amendment would extend from December 1, 1983, to December 1, 1984, the date by which non-farming entities are re-

quired to sell their quotas and defined the mandatory sale provision as applicable only to farms where the land is not being used for agricultural purposes. This provision was amended to include Flue-cured tobacco quotas as well as Burley. This amendment was adopted by voice vote.

Chairman Helms offered two amendments pertaining to Flue-cured tobacco. The first would allow an exemption from the prohibition on lease and transfer, until 1990, for those allotment owners with relatively small quotas. After some discussion it was decided to set the amount of these quotas at 3,000 pounds or less. A second amendment made technical changes to the provision allowing greater flexibility to the Flue-cured Tobacco Stabilization Cooperative Corporation in the use of the No Net Cost Tobacco Fund. These amendments were accepted on a voice vote.

Senator Boren moved that the Committee report the dairy and tobacco sections as modified. The motion was discussed, and it was agreed that each section would be voted on separately and then combined into a single Committee bill. The dairy section was adopted by a vote of 13 to 5, and the tobacco section was adopted by a vote of 16 to 1.

## Administration Views

On June 23, 1983, the Committee received a letter from Secretary of Agriculture John R. Block expressing the Department's views on the reported legislation. This letter, along with the April 14, 1983, testimony to the Committee by the Deputy Secretary of Agriculture, Richard E. Lyng, on dairy and the June 14, 1983, testimony to the Committee by C. Hoke Leggett, Associate Administrator, ASCS, USDA, on tobacco follow:

Department of Agriculture,
Office of the Secretary,
*Washington, D.C., June 23, 1983.*

Hon. Jesse Helms,
*Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.*

Dear Jesse: This responds to your request for the Department's position on legislation recently approved by your Committee.

The Committee recenty ordered reported H.R. 2733, a bill which, among other things, would establish minimum target prices for the 1984 and 1985 crops at 1983 levels. We strongly support the target price provisions of H.R. 2733 for reasons we have shared with the Congress over the past few months. However, the upland cotton bid and export credit amendments are unnecessary and, therefore, the Administration opposes them.

After the signup for the payment-in-kind (PIK) program was completed, it became apparent that designated upland cotton loan stocks owned by participating producers which were to be made available to the Commodity Credit Corporation (CCC), together with other CCC stocks, would not be sufficient to satisfy the requirements of the PIK program. On May 11, the Department gave producers the opportunity to sell to CCC upland cotton which had been pledged as price support loan collateral but which had not been designated for the PIK program. Under the bid system, pro-

ducers would submit a bid to CCC specifying the amount of upland cotton which they desired to receive from CCC as compensation for redeeming their loan collateral and selling it to CCC for PIK purposes. However, it was specified that CCC would accept no bids from upland cotton producers in excess of a seven percent premium.

The original bid period expired on May 26. On June 2, the bid period was extended for two more weeks. The bid period is now closed. We did not receive sufficient quantities of upland cotton to meet PIK needs. Therefore, we announced on June 17 that producers would be required, at our option, to make their 1983 crops of upland cotton available to CCC to meet PIK requirements. Growers had specifically agreed to make their 1983 crops of upland cotton available to CCC for PIK purposes, if necessary, when they signed their PIK contracts months ago.

The bid amendment in H.R. 2733 would require the Secretary to reopen bids for upland cotton which is needed by CCC to carry out the 1983 PIK program. The bid period would last until sufficient quantities of upland cotton were acquired, or for a reasonable period of time (but not less than two weeks). No limit would be established on the amounts bid, and no bids would be rejected unless they exceeded the bid amounts which were accepted by CCC in the acquisition of corn and sorghum for PIK purposes. This amendment would delay the delivery of PIK quantities and confuse producers. It is entirely unwarranted.

The export credit amendment would require expenditures of not less than $300 million of CCC funds for export activities already authorized by law in each of fiscal years 1984 and 1985. This minimum level would supersede the $175 to $190 million required to be used for export activities for each of the fiscal years 1984 and 1985 under provisions of the Omnibus Budget Reconciliation Act of 1982. Receipts from this new program and from export promotion expenditures already made under the Reconciliation Act would become start-up funding for an export credit revolving fund authorized by Section 4(d) of the Food for Peace Act of 1966. Most of the limitations on the revolving fund, including annual limitations provided in appropriations acts, the sunset date, and the 25 percent limit on credit to a single country, would be removed.

Our policy is to adjust the annual level and mix of export promotion programs so as to meet the needs that we perceive and to respond to changing economic conditions. In FY 1983, we have made $350 million in direct export credits and $4.8 billion in export credit guarantees available to foreign buyers of U.S. agricultural products. This bill would force us to operate direct export promotion programs at a minimum of $300 million and would require the operation of a new export credit revolving fund. We believe that the Secretary should retain discretion in the operation and level of funding of these programs.

In addition to H.R. 2733, the Committee ordered reported a separate bill that includes a dairy price support program that we have stated would be acceptable to us only if contained in a package with the reductions in the 1984 and 1985 crop minimum target prices.

We appreciate the opportunity to comment on this legislation.

Sincerely,

JOHN R. BLOCK, *Secretary.*

STATEMENT BY RICHARD E. LYNG DEPUTY SECRETARY OF AGRICULTURE, APRIL 14, 1983

Mr. Chairman and Members of the Subcommittee, it is a pleasure to have this opportunity to discuss the dairy price support program with you today.

This Administration has tried to deal effectively with several major agriculture issues during the past two years. Each issue posed a particular problem. In most instances, we have been able to arrive at a workable solution. Solutions were possible because the affected industries and commodity groups were able to join together and agree to support initiatives which were also acceptable to the Congress and the Administration.

Unfortunately, we have been unsuccessful to date in achieving a solution to the dairy price support problem. While we made some limited progress initially, there remain serious problems with the program which demand immediate solutions. It is generally agreed that a reasonable dairy price support program is badly needed. But the hour is indeed getting late. And consensus is elusive.

The Reagan Administration accepts the need for a dairy price support program which provides for adequate, reliable supplies of pure, wholesome milk at reasonable prices. While we recognize that the program must provide dairy producers an adequate return, it must also be at a reasonable cost to the Government, and ultimately the taxpayers. The cost of the current program is unreasonable and excessive.

*The recent past*

The dairy price support program generally performed quite well from 1949 until about 1980. During most of this time, the price support level was high enough to give producers a fair return while consumers were supplied with an adequate and wholesome supply of milk and dairy products. However, the Food and Agriculture Act of 1977 amended the Agriculture Act of 1949 to increase the minimum support level to 80 percent of parity, an historically high level, and mandated a mid-year adjustment of the support price. Moreover, in 1979, these provisions were extended for two additional years.

That legislation has been the primary cause of one of the most serious problems the dairy industry has ever encountered. It sent dairy producers an economic signal to produce more milk. More importantly, the historically high price support level attracted additional production resources into the industry. Cow numbers increased for the first time in 30 years, and productivity per cow continued to rise. This expansion in dairy production resulted in a tremendous surplus of dairy products at a cost to taxpayers of over $2 billion per year. It has continued to expand in 1983. At the same time, the high level of price support has acted to discourage consumption. The end result has been virtually to bury the Nation in surplus dairy products.

It would be wrong to blame dairy producers for this gross overproduction. Dairy producers simply reacted to the price signals that were being sent by their government—and they were the wrong signals since they ignored the marketplace. Excess production and lower consumption resulted.

Yes, the dairy problem was caused by the government. We adopted legislation that provided for inflexible adjustments in the price support level which bore no relationship to the marketplace. And now we have a serious surplus problem placing the dairy support program in jeopardy.

Early in this Administration a decision was made to seek Congressional approval to maintain the support price at a specified level. We realized that a severe overproductin problem had been set in motion that had to be turned around. Congress accepted our proposal to eliminate the semi-annual adjustment in the level of price support which was scheduled for April 1, 1981 and hold the support price at $13.10 per hundredweight. It has remained the same now since October 1, 1980.

But milk production continued to increase, demand leveled off, surplus inventories kept building, and the program costs kept rising. Our options were limited. During consideration for the 1981 Farm Bill, the Administration sought flexibility in adjusting the level of price support for milk.

We faced strong opposition and were not able to achieve enough moderation in the price support level. By late 1981, the situation was completely out of control and it was obvious the provisions in the 1981 Farm Bill would not solve the problem. At the same time, it became clear that without the united support of the dairy industry, the chances of getting a workable solution would be severely limited.

Last March, the Secretary called for a Dairy Symposium to be conducted in Kansas City. He felt it was imperative to provide a forum in which the dairy leaders of this Nation could get together and generate input from the industry.

The symposium produced a wide range of ideas. While there was no consensus developed for any one proposal, the overriding mood of the participants was to find a solution that would work. It was apparent to everyone that we had little time and could not afford to make too many more mistakes.

After considerable deliberation, the Administration, in May of 1982, supported an overall dairy package that requested legislative authority in two areas: (1) discretionary authority for the Secretary of Agriculture to establish the price support level as needed to bring milk production under control, and (2) amendments to the 1949 Act to allow the Commodity Credit Corporation to donate dairy products overseas and to permit domestic donation of these products to needy households.

At that time, the Secretary promised not to adjust the support level until January 1, 1983 in order to allow producers enough time to begin making the necessary cutbacks and still have the benefits of the higher price support. But at that time, he also pledged that the price support level would not be lowered below $12 per hundredweight. The Secretary also outlined a number of administra-

tive steps we could take, including stepping up our domestic donations to needy families. And we have acted on most of them.

The proposal was offered to Congress last year. It was soundly rejected. In its place, Congress passed the dairy deduction plan in the Omnibus Budget Reconciliation Act of 1982. The Administration never liked this plan, we never supported it, and we knew it would not solve the problem. Even on the day it passed, we predicted that that Congress would again be facing the issue before to many months passed.

After grassroots opposition was voiced by farmers to the deduction plan, you could find no one who would claim it. The end result was a law, a deduction, that virtually no one supported.

The Department announced plans to implement the deduction, 50-cents per hundredweight starting last December. Immediately, numerous lawsuits were filed across the country. Before the month ended, we were legally restrained from collecting the deduction.

In January of this year, we again announced plans to implement the deduction effective April 1 and asked for public comment. At the same time, we asked for comments on a proposal to begin collecting the second 50-cent deduction which was authorized by Congress. The comment period ended February 28, 1983.

The second deduction contains a provision for giving a refund to producers who reduce their commercial marketings from quantities marketed during a designated base period. In attempting to collect the second 50-cent deduction, the Department of Agriculture will be faced with a difficult administrative problem. This will be difficult because individual past production levels must be verified and current production of each producer will have to be monitored.

The Department has spent a considerable amount of time and effort trying to resolve this problem. We have talked with the industry and Congressional leaders, again trying to reach some sort of consensus. But not it is time for the Administration, the dairy industry and the Congress to make some tough and timely decisions. Delaying these decisions will not resolve the dairy surplus problem.

*Present situation*

The brings us to where we are today and it is important to put the situation in proper perspective. First, the Department announce that the first 50-cent deduction will be implemented effective April 16, In addition, we will very soon be conducting the necessary public rulemaking to determine whether the second 50-cent deduction should be implemented.

There must be better way. There surely is a better, less complex solution which will be widely acceptable. The Administration has indicated repeatedly that alternative proposals will be given serious consideration. We believe that a solution to the dairy problem must be unique. It should be designed to strike directly at the heart of the situation.

The Secretary of Agriculture, in a dairy policy statement last month, urged that a solution embrace these principles:

—It should allow freedom of initiative for an individual dairyman. It should not force him to operate under any type of restrictive system.

—It should maintain the basic type of program that has served the producers and the industry so well since 1949.
—It should lower dairy surpluses by simultaneously reducing milk production and increasing consumption.
—It should be simple to administer and easily understood by dairy farmers.
—It should give the Secretary of Agriculture the flexibility over time to adjust the program to changing supply and demand situations.

Proposals which embrace these principles will receive the support of this Administration. We have purposely not offered a specific proposal to show that we are willing to work with the industry and with the the Congress to fashion a reasonable dairy policy.

We are aware there are some who resist giving the Secretary of Agriculture any flexibility to achieve an adequate balance between supply and demand. We believe they are unnecessarily fearful. No Secretary of Agriculture, under any Administration, would ever lower the support price to a level which would result in a shortage of milk.

We asked for greater flexibilty in our last proposal and the Congress rejected it. But respectfully we ask the Congress to reexamine our position.

A sound, workable dairy support plan should not be complicated. The type of plan we had in place for many years was simple, effective, and clearly understood by farmers. We should seriously consider this before adopting a totally new, complex approach.

If a sufficient resolution is not forthcoming by August 1, the Department will again consider the implementation of the second 50-cent deduction. We certainly hope this will not be necessary. We believe the Congress and the industry share our concerns.

We have been very encouraged about the prospects of getting the dairy price support program headed in the right direction. We have been approached by dairy producers, dairy cooperatives, farm organizations, commodity groups, and state officials. Many of them are voicing a similar theme: A reduction in price supports is the best approach. Demand for milk products must be increased and reducing the price support level is the most effective way to ensure that. This adjustment is necessary for fluid as well as processed dairy products. In addition, it sends a signal to farmers to adjust output to market needs.

*Time is short and cooperation is needed*

For the past two years the Nation has searched for a solution to the dairy support problem which would somehow leave all dairy producers untouched. The failure of such efforts is apparent when one looks at the gigantic mountains of butter, non-fat milk powder and cheese in government warehouses. The failure in getting control of the program is disturbingly apparent when we add up the over $6 billion net cost to the taxpayers in just about three years.

Further failure to come to grips with the dairy problem threatens a total end to the support program. We must not allow this to happen.

Thank you.

STATEMENT OF C. HOKE LEGGETT, ASSOCIATE ADMINISTRATOR, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, JUNE 14, 1983

Mr. Chairman and Members of the Committee, my name is C. Hoke Leggett. I am Associate Administrator of the Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture. In addition, we have specialists in attendance from our ASCS Tobacco and Peanuts and Analysis Divisions, as well as the Foreign Agriculture Service, who can later assist in responding to any questions. We appreciate the opportunity to appear before you today to discuss the Tobacco Price Support Program.

*U.S tobacco trade*

The Secretary recognizes the great contribution tobacco makes in our national economy as well as the contribution it makes towards a favorable balance of trade. The importance of international tobacco trade to the United States should not be understated. The United States is the leading exporter and the leading importer of unmanufactured tobacco. We are the number one exporter of manufactured tobacco products.

Tobacco trade contributes importantly to our balance of payments. Last year exports of leaf tobacco were more than $1.5 billion. Exports of tobacco products mainly cigarettes—were $1.3 billion. Taken together, our exports of leaf and products exceeded imports by more than $2.3 billion—a record contribution by tobacco to our balance of trade.

American tobacco producers are heavily dependent on the world market: nearly half of the U.S. flue-cured crop moves into export; burley exports approach one-fifth of production.

But despite the relative strength of our industry's export performance, the dominant position of the United States in the world tobacco economy is waning.

For example, ten years ago nearly four-tenths of the world's flue-cured tobacco crop, excluding production in the Peoples Republic of China, was grown in the United States. We supplied four-tenths of world exports.

Last year, we produced less than one-fourth of the world's flue-cured tobacco and our exports were only one-fourth of the total.

During the same period, imports into the United States have grown. In 1973, less than one-fifth of the tobacco used in our cigarettes was imported, and most of this (80 percent) was oriental—a type not grown in the United States.

Today, nearly one-third of the tobacco consumed in cigarettees in the United States is imported and more than half of this is flue-cured and burley leaf and scrap.

In short, during the past ten years foreign-grown tobacco has taken practically all of the growth in consumption outside the United States and a significant portion of consumption in this country.

The erosion in demand for U.S. tobacco in the export and domestic markets is largely due to the continuing disparity between its cost and that of tobaccos produced in developing countries. To the extent that the price support formula has helped maintain this cost

gap, it has encouraged production and consumption of cheaper foreign-tobacco.

Current and prospective supply and demand factors point toward acceleration in the loss of market share for U.S. tobacco, at least in the near term.

Tobacco consumption in the United States and most major consuming countries is stable or declining due to tax and price increases, smoking and health concerns and the effects of economic recession on disposable incomes. Rising costs and continuing high interest rates are encouraging greater efficiencies in leaf manufacturing and reductions in leaf inventories. Leaf supplies world-wide are generally in excess of anticipated requirements. The strength of the dollar in relation to the currencies of importing countries and recent devaluations by competing exporters—Argentina, Brazil, Mexico, Zimbabwe, for example—are making U.S. tobacco less price competitive.

Unless measures are taken to bring the price of U.S. flue-cured, burley, and other kinds of tobacco more into line with the prices of competing foreign growths, we face the prospect of further loss of sales in the export and domestic markets, a continuing buildup of loan inventories, increased contributions by producers to the no net cost fund, and reductions in production quotas.

*Exports*

In relation to domestic production, exports of tobacco have been important for many years. Tobacco ranks fourth or fifth among U.S. agricultural exports in terms of value (after feed grains, soybeans, wheat, and sometimes after cotton). About 35 percent of the crop goes as unmanufactured tobacco and 5 percent is exported as manufactured products.

*Tobacco is fifth leading cash crop*

Although tobacco requires only 0.3 percent of the Nation's cropland, the tobacco crop was worth $3.5 billion last year and accounted for 2.3 percent of all farm cash receipts from marketing. Tobacco sales represent nearly 5 percent of cash receipts from crops and usually bring it to a fifth ranking in value among cash crops (after corn, soybeans, wheat, and cotton) and tenth among all U.S. farm commodities (after previous four crops plus cattle, hogs, milk, eggs, and broilers). Tobacco sales are 50 percent larger than citrus fruit sales, twice as great as the sorghum or potato crops, and four times larger than peanuts or apples.

*Farm production*

In 1982, about 250,000 farms produced tobacco. Although twenty-two States have farms growing tobacco, most of them are in the South because of more favorable growing conditions. Six States accounted for 90 percent or more of the tobacco allotments, farms producing tobacco, cash receipts, and employment.

The six leading States, ranked by the amount of cash receipts from tobacco are: North Carolina, Kentucky, South Carolina, Virginia, Georgia, and Tennessee. For the six States, tobacco cash receipts were 22 percent of total cash farm receipts. In the two leading States, North Carolina and Kentucky, tobacco is the leading

source of cash receipts from farm marketings and ranks high in South Carolina, Virginia, Georgia, and Tennessee.

*Tobacco, a major requirement for farm labor*

Tobacco is a major agricultural commodity that several hundred thousand farm families depend on for a significant part of their livelihood. Tobacco is one of the few crops that can utilize family labor and still provide a reasonable income on a small farm. About 230 hours of labor are required to produce and market an acre of tobacco. By contrast, food grains (wheat and rice) require only 3¾ hours per acre.

About 5 percent of all labor used on farms, or about 226 million hours, went into tobacco production in 1981. Much tobacco labor comes from the operators and their families but most producers hire some labor due to the extremely high seasonal requirements.

*Allotment size distribution*

The 195,000 farms with flue-cured allotments averaged 2.8 acres of tobacco in 1981 but vary widely in size from less than ½ acre to 200 acres. Almost nine-tenths (87 percent) of the allotments are 5 acres or less (accounting for 52 percent of the quota). Lease and transfer of allotments and renting of farms has increased markedly since the early 1960's so that the average operating unit was about 12 acres by the late 1970's.

*Freeze price supports*

The Department favors legislation that would amend section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) to lower or freeze the price support for flue-cured tobacco.

The No Net Cost Tobacco Program Act of 1982, in amending the 1949 Act, requires that at least 65 percent of the increase computed using the support formula be added in the support level of that of the previous crop year. And the modest reduction—35 percent of the increase—can occur only when we find that the supply of certain grades of a particular tobacco is or is likely to be excessive. The Department has proposed for the 1983 season a support level of $1.789 per pound (minimum) to $1.838 (maximum). The period for receipt of comments from the public ended June 9 and we are now deciding on the support level and appropriate grade loan rates. Assuming the minimum support for the purpose of this discussion, a freeze at the 1982 level of $1.699 per pound would represent a reduction of 5.0 percent.

With thousands of producers and a handful of multinational tobacco manufacturers, it's imperative that we have a structure that provides buyers an adequate supply at reasonable prices, while providing producers a fair return.

As you know, the Administration favored enactment of the No Net Cost Tobacco Program Act of 1982. We considered the legislation as a positive first step in controlling the costs of the tobacco program. But we said in our legislative report that the discretion to adjust support levels was very narrow and may not be enough to allow USDA and producers to meet the no net cost objective specified in the Agriculture and Food Act of 1981.

Over the years, the statutory formula which must be used to calculate the level of price support for tobacco has resulted in increased support prices without regard to changes in tobacco production costs and prices of competing supplies. From 1971 to 1981, the increase in the level of price support for all kinds of tobacco was approximately 129 percent. Since the present formula for calculating the level of price support for tobacco was established by legislation in 1960, the U.S. share of world flue-cured tobacco exports has declined from approximately 60 percent to 26 percent. Imports of flue-cured tobacco have increased from a negligible amount to approximately 12 percent of domestic use. For burley, imports have increased to 19 percent of domestic use.

United States flue-cured prices for the 1981 tobacco buying season averaged 87 percent more than grower prices in the major tobacco competing countries of India, Canada, Thailand, Malawi, Brazil, Zimbabwe and Korea. Currency devaluations by major competitors in recent months have also contributed to greater differences in the prices for domestic and foreign tobacco. By contrast, the U.S. prices in 1962 were 62 percent more than the grower prices in the foreign countries listed above. While costs vary markedly from grower to grower, USDA is able to estimate a representative production cost for flue-cured tobacco. Excluding land and quota charges, production costs, except for 1979, average well below the levels of price support. The levels of price support for the 1981 and 1982 crops of tobacco were substantially greater than the cost of production. To slow the growth of foreign competition and increase U.S. tobacco's competitiveness, it is clear that consideration will have to be given to a substantial revision or modification of the statutory method for calculating the level of price support. Failure to take such action will surely necessitate sizable reductions in the basic quota, and sharp increases in producer contributions to no net cost funds or accounts will be necessary. Although this hearing is to determine what changes should be made in the flue-cured tobacco price support program, the formulas used in determining price supports for burley, fire-cured, dark air-cured, and cigar tobaccos provide very limited discretion for the Secretary of Agriculture. The formulas may have to be modified to assure that the program is operated at no net cost to the taxpayer.

*Phase out of lease and tobacco*

The Department favors, in principle, a modification of the current arrangements for renting and leasing quota. However, we would like to point out that there are numerous problems associated with administering a program which requires the owner to share in the risk of the production of the crop. Administrative problems would probably be minimal in those cases in which a lessee leases quota from only one farm owner, but leasing quota from several farm owners would greatly complicate the problem

Some of the problems associated with sharing in a lease and transfer arrangement are:

1. With multiple leases involving different share arrangements and differing pounds of quota, payments to the various owners when the tobacco is sold may be very complicated.

2. Marketings over or under 100 percent of the quota would present problems to the lessee and lessors.

3. Determining whether several lessors would share in each marketing of tobacco or simply in a specified number of pounds would present problems because all marketings may have different values.

4. A producer could sell his poorer quality tobacco first to pay the owner of the quota and then sell his better tobacco with his previously existing quota.

5. ASCS would have to determine whether indirect means, such as lending money, has been used to pay the owner up front before the crop is marketed.

In addition, some of the problems associated with a requirement that the owner's share in the crop be produced on the owner's farm are:

1. When several farms each having a different owner are combined into one farm through the ASCS office, each owner would have to share in the crop. This would lead to some of the same problems as enumerated for lease and transfer.

2. ASCS currently does not have a record of all of the owners on some farms. To obtain such information is virtually impossible, especially for those smaller farms in which an owner died intestate years ago and the estate has been left intact.

3. ASCS would have to determine whether an owner produced the quota himself rather than actually cash leasing the land and quota to another producer and concealing such fact from ASCS.

4. Owners may feel that specifying the manner in which they must rent their tobacco crop that is being produced on their own farm is an invasion of their privacy.

5. ASCS would have to determine whether indirect means, such as lending money, had been used to pay the owner up front before the crop is marketed.

We would be pleased to discuss with this Committee some alternatives which may be used in reaching the objectives which have been expressed regarding lease and transfer during 1984 and 1985. All in all, new legislative authority for flue-cured tobacco would provide tobacco growers some additional steps in the effort to make U.S. tobacco production more competitive and to protect our market share in customer countries around the world. Some of the proposed changes along with additional discretion for the Secretary of Agriculture may need to be considered for burley and other kinds of tobacco under support.

Mr. Chairman, I am glad the Committee has chosen to consider legislative changes, and appreciate the opportunity to meet with you.

## Cost Estimate

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that enactment of S. 1529 would result in costs to the Federal Government as shown in the following table. The Committee estimates that enactment of this legislation will result in no changes in costs to the Government from the CBO baseline for fiscal year 1983.

DIRECT SPENDING

[In millions of dollars, by fiscal year]

| | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|---|---|---|---|---|
| Diary: | | | | | |
| Budget authority | 1,721 | 1,264 | 173 | −202 | −94 |
| Outlays | 0 | 320 | 173 | −202 | −584 |
| Tobacco: | | | | | |
| Budget authority | 0 | 0 | −99 | −20 | −33 |
| Outlays | −138 | −144 | −99 | −20 | −33 |
| Cotton: | | | | | |
| Budget authority | 154 | 0 | 0 | 0 | 0 |
| Outlays | 138 | 0 | 0 | 0 | 0 |
| Total: | | | | | |
| Budget authority | 1,875 | 1,264 | 74 | −222 | −127 |
| Outlays | 0 | 176 | 74 | −222 | −617 |

The Committee estimate is in accordance with informal cost figures provided to the Committee by the Congressional Budget Office and represents changes from official baseline estimates of the Congressional Budget Office.

The Committee received no official estimate of costs from any Federal agency or from the Congressional Budget Office.

## Regulatory Impact Evaluation

In compliance with subsection 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact associated with the implementation of the Committee bill.

The Committee bill consists of changes to existing farm commodity price support programs for dairy and tobacco. The bill also affects the payment-in-kind program for cotton. These changes are within parameters that continue to emphasize the need for a minimum amount of Government involvement in farm businesses.

Any legislation that uses taxpayers' money to provide benefits to individuals properly requires some regulation. In the case of farm programs, certain records must be kept by individual producers and by Government agencies administering the programs. The Committee bill continues to reflect the policy that regulation and paperwork should be kept to the minimum amount necessary to insure proper administration and compliance for the programs in this measure.

The major provisions of the Committee bill reflect changes in (1) the dairy program, (2) the tobacco program, and (3) the payment-in-kind for the 1983 cotton crop.

### Dairy

#### NUMBER OF INDIVIDUALS AND BUSINESSES AFFECTED

The Committee bill requires that:

(a) The price support for milk would be lowered to $12.60 per hundredweight, effective October 1, 1983. Further changes in the

milk price support would be contingent upon certain findings by the Secretary of Agriculture over the life of the program.

(1) If, on January 1, 1985, the Secretary estimates that Government purchases for the calendar year would exceed 6 billion pounds milk equivalent, the Secretary would be required to reduce the support level by an additional 50 cents to $12.10 per hundredweight.

(2) If, on July 1, 1985, the Secretary estimates that Government purchases for the next 12 months would exceed 5 billion pounds, the Secretary would be required to reduce the support level by an additional 50 cents. However, if the Secretary estimates that purchases would be 5 billion pounds or less, and determines that it would be required to ensure adequate supplies of milk, the Secretary would be required to raise the support price 50 cents per hundredweight.

(b) A paid diversion program would be established. Under such a voluntary program:

(1) Producers who chose to reduce production from 5 to 30 percent below their bases would receive a payment of $10 for every hundredweight not produced below their base.

(2) A producer's base would be his choice of either his 1981/1982 marketings, during the period corresponding to the paid diversion program, or the average of his 1980/1981 and 1981/1982 marketings.

(3) Producers are limited in the transfer of their base to another producer except in the event of death, gift, or intra-family transfer.

(4) Participation in the paid diversion is limited to producers who have established bases prior to December 31, 1982, unless acquired under the previous provision.

(5) Diversion payments would be made quarterly.

(6) The paid diversion and deductions would end on December 31, 1984.

(7) If the Secretary should be enjoined by any court from implementing the mandatory 50-cent deduction, the Secretary must suspend diversion payments for the duration of the court order.

(c) The paid diversion program would be financed by a mandatory deduction of 50 cents per hundredweight from the price of all milk marketed commercially from the date of enactment of the bill through December 31, 1984.

(d) A nationwide milk promotion program would be established with each producer required to contribute 15 cents for each hundredweight of milk marketed commercially, except that the producer would be given credit for up to 10 cents per hundredweight of what he pays to any qualified State or regional promotion program.

(e) A National Dairy Board would be responsible for administration of the order, subject to supervision by the Secretary of Agriculture. The Board is required to solicit and screen proposals to develop and implement advertising and other promotional programs to increase the commercial sales of dairy products and to conduct research into products and processes that will increase the use of milk, subject to approval by the Secretary.

(f) A referendum would be held within 60 days prior to September 30, 1985, to determine whether the promotional checkoff will be continued.

(g) The Secretary would be required to conduct studies on the impact of raising minimum standards of solids for fluid milk, and on the method for calculating the milk support price.

There are approximately 311,800 dairy producers in the United States who would be affected by the provisions in this bill. In addition, there are about 1,066 fluid milk processing plants and a total of 2,069 plants which produce at least one or more dairy products.

Inasmuch as parts of the Committee bill are mandatory for all dairy producers, the measure would affect all producers to some degree. The paid diversion program, however, is entirely voluntary. Producers are given an incentive to reduce production, but are not required to participate in the paid diversion portion of the program.

### ECONOMIC IMPACT

The Committee bill is designed to achieve a desired reduction in the production of fluid milk in the United States without adversely affecting one region of the country at the expense of another.

In recent years, the level of Government price supports has determined the floor price for fluid milk. As domestic production has increased, demand has not kept pace. The result has been that the Government has become the purchaser of a growing surplus of dairy products, resulting in a significant cost to the Federal Government. As the support price in the United States has remained high relative to the world market-clearing price, it has not been possible to dispose of Government stocks of dairy products.

A reduction in the level of dairy price supports should cause some producers to decrease production, resulting in smaller government purchases at a lower purchase cost, and lower overall program costs. However, due to a variety of factors such as increased milk production per cow, lower feed costs, the payment-in-kind program, and other variables such as potential off-farm employment; it is difficult to predict how individual producers will react to a reduction in the support level.

In the short run, lower price supports will result in lower gross incomes to dairy farmers. This can be offset somewhat if dairy farmers choose to participate in the paid diversion program, particularly if significant reductions in production are achieved. The level of participation and subsequent reductions in production will have a direct affect on the long-run outlook for the dairy industry.

### PERSONAL PRIVACY ACT

The dairy provisions would have no impact on the personal privacy of the individuals affected.

### PAPERWORK IMPACT

There would be no significant change in the volume or complexity of paperwork required for proper administration of this provi-

sion. Requirements for individuals and businesses would not differ significantly from existing law.

## Tobacco

### NUMBER OF BUSINESSES AND INDIVIDUALS AFFECTED

The Committee bill provides that:

(a) The 1983 crop of any kind of tobacco would be supported at the 1982 level.

(b) The 1984 crop of Flue-cured tobacco would be supported at the 1982 level.

(c) The 1985 crop of Flue-cured tobacco would be supported at a level determined by the Secretary of Agriculture under an option that would:

(1) Retain the support at the 1982 level if the price support would not be more than 5 percent greater than the 1984 level under the regular formula; or,

(2) Set the support at the 1984 level, plus or minus the regular formula adjustment, if the 1985 level would be more than 5 percent greater than the 1984 level under the regular formula.

(d) The 1984 and 1985 crops of any kind of tobacco (other than Flue-cured) will be supported at a level that will not narrow the normal price support differential between Flue-cured and other kinds of tobacco, as determined by the Secretary.

(e) The method of assessment for the no-net-cost tobacco program fund would be changed so that only the lessee would make the contribution.

(f) The Stabilization cooperative, with the consent of the Secretary, would have greater flexibility in the use of the assets of the no-net-cost fund, in such ways that would be mutually beneficial to producers and to the Commodity Credit Corporation.

(g) New grower allotments for Flue-cured tobacco would increase from the present 1 percent of the annual national quota, to 3 percent. The yield for new tobacco farms can be established on the basis of actual productivity data and yields for similar farms.

(h) The announcement date for certain determinations relating to Flue-cured tobacco would be changed and acreage planted to Flue-cured tobacco would be required to be determined.

(i) Changes in the Flue-cured tobacco allotment program would:

(1) eliminate the lease and transfer of Flue-cured tobacco allotments and quota off the farm to which they are assigned, beginning with the 1987 crop. For allotments under 3,000 pounds, this provision would begin with the 1990 crop.

(2) Lease and transfer in the 1984 through 1986 crops would be allowed only if payment for the lease is not made prior to the marketing of tobacco produced under the lease.

(3) Any Flue-cured allotment or quota which has not been planted during 2 out of the previous 3 years would be forfeited. Any foreited allotments would be distributed to active producers within a county.

(j) Beginning with the 1984 crop, the downward adjustment that the Secretary may make in the national marketing quota for Burley tobacco would increase from 5 to 15 percent.

(k) The amount of leased-in Burley tobacco quota would be decreased from 30,000 to 15,000 pounds.

(l) Any lease of Burley tobacco quota after July 1 of the crop year specified in the lease would be prohibited.

(m) Modifications are made to the prohibition against the lease and transfer of Burley quotas across county lines.

(n) The Secretary of Agriculture will review Burley tobacco imports and make recommendations specified by law.

More than a half million farm families are involved in producing tobacco in the United States, in addition to seasonal workers. Tobacco is grown on more than 200,000 farms in 22 states. In 1981, the Federal Government issued 545,676 allotments to grow tobacco on 974,000 acres of land,

In fiscal year 1981, 139 factories in 20 states had federal permits to manufacture tobacco products. In addition, 233 warehouses were authorized by the Federal Government to export tobacco. On an average monthly basis, 69,800 persons were employed in tobacco manufacturing during 1981.

The regulatory impact of the Committee bill on producers and manufacturers of tobacco products would not be significant. The proposed modifications would not differ greatly from existing law. No additional paperwork would be required of producers of businesses greater than that required under existing law.

ECONOMIC IMPACT

The United States is the leading exporter and importer of tobacco in the world. In recent years, more than a third of the domestic crop has been exported. In 1981, tobacco contributed more than $2.2 billion to the U.S. trade balance of payments.

Provisions in the Committee bill would have a direct affect on tobacco producers. By bringing the support price of tobacco more in line with the world market price, U.S. tobacco will be more competitive in both domestic and world markets. In the long run, this will result in a more stable tobacco program, and in higher incomes for tobacco farmers.

The immediate result of a freeze in the price support level for the 1983 crop will be to reduce the amount of tobacco entering Stabilization. This will result in lower loan outlays for the Federal Government, and a lower assessment to tobacco producers who must make up any CCC losses on the tobacco loans as required by the no-net-cost tobacco program.

The elimination of lease and transfer should provide a gradual redistribution of allotments into the control of active tobacco producers. By 1987 or 1990, non-growers will have a strong incentive to sell tobacco quotas to active growers. This will result a more cost efficient domestic production, and will help to make U.S. growers more competitive in world markets.

PERSONAL PRIVACY ACT

The tobacco provisions would have no impact on the personal privacy of the individuals affected.

PAPERWORK IMPACT

There would be no significant change in the volume or complexity of paperwork reqiured for proper administration of this provision. Requirements for individuals and businesses would not differ significantly from existing law. In 1987 and 1990, upon expiration of current lease and transfer provisions, there would be some decrease in paperwork required.

## Payment-in-Kind Program for Cotton

NUMBER OF INDIVIDUALS AND BUSINESSES AFFECTED

The Committee bill would modify the payment-in-kind program for the 1983 crop of upland cotton:

(a) The Secretary of Agriculture is required to solicit bids from producers, for 1982 upland cotton under loan, without specifying any limit on the amount of the bids.

(b) No bids can be rejected as long as sufficient cotton to carry out the payment-in-kind has not been acquired under this procedure, unless such bids exceed the amount bid and accepted under the same procedure for feed grains.

(c) A producer who has previously submitted a bid would have the opportunity to nullify that bid if the producer agrees to submit another bid under the terms of this provision.

This provision would affect cotton producers who choose to participate in the payment-in-kind program for the 1983 crop of upland cotton, who also have 1982 cotton under loan. Some of these producers have already signed up for the 1983 payment-in-kind program.

Some businesses who purchase cotton directly, or who broker cotton will be affected by changes in the price of cotton available for sale.

ECONOMIC IMPACT

Estimating the potential economic impact of the Committee bill is difficult because of the complexity of the issues and the payment-in-kind program. This is true, in part, because the Secretary is in the process of conducting a sign-up for a cotton payment-in-kind program as authorized under current law. Sign-up reports are not yet available.

PERSONAL PRIVACY ACT

This provision would not have any impact on the personal privacy of the individuals affected.

PAPERWORK IMPACT

Any Government program which provides financial assistance must have clearly defined regulatory guidelines and a certain amount of paperwork to ensure proper program administration. The amount of paperwork involved under this provision would be comparable to that required under similar Government programs.

## Rollcall Votes

In accordance with paragraphs 7(b) and 7(c) of Rule XXVI of the Standing Rules of the Senate, it is announced that—

1. A motion was offered to limit the import of milk protein products, caseins, caseinates, or mixtures containing not less than 5 percent of such procducts to 50 percent of the average total quantity of such milk protein products imported annually into the United States during the period beginning January 1, 1977 and ending December 1, 1981. The limitation would be effective beginning on the day after enactment of the Act and ending December 1, 1986. The motion was defeated by a 9 to 9 vote as follows:

YEAS: Boschwitz, Andrews, Huddleston, Leahy, Zorinsky, Melcher, Pryor, Boren, and Heflin.

NAYS: Dole, Luger, Cochran (by proxy), Jepsen, Hawkins, Wilson, Hatch (by proxy), Dixon, and Helms.

2. A motion was offered to amend the dairy compromise package as follows: to allow the producer to establish his base period as either 1980, 1981, or 1982; to provide the Secretary of Agriculture with discretionary authority to extend the paid diversion program through September 30, 1985; and to retain the dairy price support at $13.10 per hundredweight for the period of the diversion program if program participation would result in at least an 8 percent reduction in milk production. The motion was defeated by a 5 to 13 vote as follows:

YEAS: Boschwitz. Andrews, Zorinsky (by proxy), Melcher, and Boren.

NAYS: Dole, Luger, Cochran (by proxy), Jepsen, Hawkins, Wilson, Hatch (by proxy), Huddleston, Leahy, Pryor, Dixon, Heflin, and Helms.

3. A motion to report proposed modifications in the dairy price support program as amended was approved by a 13 to 5 vote as follows:

YEAS: Dole, Lugar (by proxy), Cochran, Boschwitz, Jepsen, Wilson, Huddleston, Leahy (by proxy), Zorinsky, Pryor, Dixon. Heflen, and Helms.

NAYS: Hawkins (by proxy), Andrews, Hatch (by proxy), Melcher, and Boren.

4. A motion to report proposed modifications in the tobacco price support program as amended was approved by a 16 to 1 vote as follows:

YEAS: Dole, Lugar (by proxy), Cochran, Boschwitz, Jepsen, Hawkins (by proxy), Andrews, Wilson, Hatch (by proxy), Huddleston, Melcher, Pryor, Boren, Dixon, Heflin, and Helms.

NAYS: Zorinsky.

## ADDITIONAL VIEWS OF SENATOR RUDY BOSCHWITZ

During the week of the Memorial Day recess, my staff and I held 17 dairy hearings on 6 days all across Minnesota. The 1,400 farmers we met with offered many constructive suggestions for improving this compromise dairy program. Some I offered as amendments; others were discussed during the markup and then addressed in the report language. Time limitations made it impossible to deal with all of them, so I will take this opportunity to mention the rest.

A problem shared by all base plans is that they pay little attention to the young farmer who has just gotten started. Such a producer will have no base to represent his current production. Thus, many recent entrants into the business will find it impractical to participate in the diversion plan. I propose no solution. Hopefully, the program will succeed in balancing supply and demand fairly soon. This will help all dairy farmers, including the young ones.

On October 1, 1983 a price cut will pose hardships on processors as well as producers. The fall is a time of seasonal inventory build-up in preparation for the winter holidays. Thus, processors normally would hold larger than average inventories on October 1. If they do that this year, they will suffer a large loss when the price drops. As a consequence, the marketing system could be somewhat disrupted as processors sell as much as possible to the CCC. It would be better to move the price cut to January 1, 1984 instead of having it in October.

Several farmers suggested that it would be cost-effective for CCC to make a direct payment to farmers for selling young heifer calves for veal. This would reduce the number of cows entering the milking herds two years from now. I believe this could be useful approach, but don't know how it would be monitored.

An increase in funding for the special milk program in schools would not only help to lessen the dairy surplus, but also teach good nutrition habits to children.

It was pointed out that it would be most fair to apply the $10 diversion payment to milk at 3.5 percent butterfat. The payment rate would then be adjusted upward or downward through a system of premiums and discounts based on fat content. This would mean that the diversion payments would be calculated in the same way that milk is regularly priced. It would give a stronger incentive for farmers with Jersey and Gurnsey (and other high-butterfat breeds) herds to participate. In private conversations with Bill Lesher, the Assistant Secretary for Economics, it became clear that such a scheme would greatly complicate the program and add a lot of paperwork. The need to keep the plan simply resulted in this idea being dropped.

A final issue involves an increase in the make allowance. This has remained unchanged since October 1980. Inflation during the

intervening years has greatly increased the costs of processing butter, cheese, and non-fat dry milk. The Administration recognizes this problem and is willing to increase the make allowance as soon as CCC removals start to decrease. It is my belief that the make allowance should be increased by at least 35 cents per hundredweight as soon as possible. When farmers start to reduce production, the processors will be running their plants at lower levels of output. This will very quickly increase their unit costs and put them in a severe financial squeeze unless the make allowance is increased. Without the increase, the price received by farmers could easily fall much farther than Congress intends.

## MINORITY VIEWS OF SENTAOR PAULA HAWKINS

I regret my inability to support the suggested dairy reform package and recommend my colleagues not to accept it as well. While I have several objections, they revolve around two issues: First, the Committee ignored the wishes of numerous farm and consumer groups who testified in favor of reducing support levels by at least $1 from the present level of $13.10 per hundredweight. Instead, the Committee agreed to artificially reduce the supply of dairy products through creation of a government sponsored cartel. Second, to support the cartel, producers will be offered the equivalent of $19 per hundredweight not to produce, far more than is necessary to induce a cutback. This overgenerosity needlessly will cost the taxpayers $750 million.

The problems created by the dairy support program have their origin in decisions made in 1977. In that year and subsequent ones, Congress agreed to raise the support price of milk at a faster rate than industry costs were rising. Not surprisingly, profit margins in the dairy industry grew, attracting additional investment and generating additional output. Since 1976, dairy production has grown from 118 billion pounds to 135 billion pounds although domestic consumption has risen from 116 billion pounds to 117 billion pounds. Under current law, the federal government must purchase all excess dairy production in the form of butter, cheese, and dry milk. In fiscal year 1983 this commitment will cost the taxpayers over $2 billion. It cost the taxpayers over $2 billion also in fiscal year 1981 and fiscal year 1982.

To understand the choices facing the Committee and the Congress, I recommend that the tables below be studied. As table one documents, the most important determinant of profitability in the dairy industry is the relative price guaranteed by the federal government for milk compared to the price of feed. This is because the cost of labor, depreciation, co-op expenses, culling, and utilities are either comparatively stable or make up a small fraction of total cost. Neither is true about feed costs.

Yet, since 1977 the cost of feed, relative to the supported price of milk, has fallen sharply. Table two, prepared by the Agriculture Department, tracks this important relationship. It shows that the price of feed has fallen relative to milk support prices. For this reason, when questioned at the mark-up the administration stated that the dairy business has been about the most profitable farming enterprise in recent years. This is due solely to an artificially high support price level, not to market forces.

TABLE 1.—*Dairy cost structure*

| | *Percent* |
|---|---|
| Revenue | 100 |
| Total cost | 89 |

| | Percent |
|---|---|
| Feed | 48 |
| Labor | 12 |
| Depreciation | 8 |
| Culling | 6 |
| Co-op expenses | 5 |
| Utilities | 10 |
| Operating margin | 11 |

TABLE 2.—*Pounds of feed equal in cost to 1 pound of milk*

| | |
|---|---|
| 1983 | 1.52 |
| 1980 | 1.48 |
| 1977 | 1.39 |

The question, then, is how to reduce the dairy surplus, created by providing artificially high profit opportunities to produce. The simplest, fairest method is to bring support prices back into alignment with feed prices. This method has been used on five previous occasions during the post-war period with success. It could be employed again successfully. To reestablish the relationship prevailing between milk and feed prices in 1977, the support price of milk would have to fall below $12.00 per hundredweight. Unfortunately, the bill lowers support levels to only $12.60.

Since this step is inadequate to resolve the dairy surplus problem, the Committee, as part of a compromise which fell apart after this bill was marked up, agreed to create a milk cartel. Under the bill, dairy producers will receive a $10 per hundredweight payment for every hundredweight of product they do not produce. The payment is triggered whenever a producer markets between 5 percent and 30 percent less than he did in a previous base year. This cartel scheme is objectionable on several grounds.

First, it is wrong to keep dairy prices artificially high. The Labor Department has calculated that the poorest families in America spend 5 percent of their incomes on dairy products; the wealthiest families spend 1 percent. By artificially restricting supply and driving prices up, the Congress is enriching an industry already earning profits unjustified by market forces at the expense of our poorest citizens.

Second, to create the cartel, Congress must offer producers a financial reward for joining. Since, in addition to receiving $10 for not producing, producers will also save approximately $9 per hundredweight in foregone feed, energy, and other costs, the incentive to participate is over $19 per hundredweight! Right now, the artificially high support price provides a $13.10 incentive to produce. Even many of those who favor creation of a cartel admit that $10 is unnecessarily high to induce participation. When questioned, the Administration admitted that $10 was "very attractive" and agreed that a lower payment would also induce the necessary level of participation to eliminate the surplus. As the foregoing makes clear, a $6 difference exists between the incentive not to produce and the incentive to produce under the Committee proposal. This makes clear that $10 is too high. A side payment of $4 per hundredweight would likely be attractive enough to induce participation since anyone participating would save time as well as money. The savings to taxpayers, if this were done, is $750 million.

Third, windfalls will be received by many producers who would be forced to cut back anyway. The size of dairy herds, and thus the

amount of annual production from dairy herds, can vary for a variety of natural causes, including accidents and diseases. Others, who were close to retirement and planned to leave the business anyway, will also receive checks from the taxpayers. In my judgment, it makes little sense to pay farmers not to produce. It makes no sense whatsoever to pay farmers not to produce when they were not going to do so anyway.

Fourth, the cartel proposal offers only a temporary solution. As long as support prices remain high relative to feed costs, producers will have an incentive to market more milk than can be commercially used. Once the cartel ends in 1985, the surplus problem will reappear unless grain prices soar in the meantime. In addition, there are a variety of ways to receive payments from the Treasury while participating in the cartel without culling cows. Producers, instead of culling, can feed milk to their barnyard animals, or even dump it on the ground. Others will cut the amount of feed given to their cows to cut output. Afterwards, it will be business as usual. Thus, Congress again will face the problem of having to buy surplus dairy products, and we already have enough to fill a train from Boston to Washington, D.C. Alternatively, we will have to extend the life of the "temporary" cartel.

For these and other reasons, I urge the Senate to reject the dairy package because it is unfair to taxpayers, and consumers, and is unworkable.

PAULA HAWKINS.

## ADDITIONAL VIEWS OF SENATOR PETE WILSON

Although I voted to report the compromise proposal out of the Senate Agriculture Committee, to allow the opportunity to resolve the debate on the Floor, I have reservations about two of the provisions in the dairy proposal.

The original intent of the dairy program was to assure an adequate supply of wholesome dairy products at reasonable prices to consumers. The program performed quite well prior to 1977, when legislation required dramatic increases in support levels. In October 1980, it was $13.10 per hundredweight (cwt), 60 percent higher than only 4 years earlier. This legislation sent a misguided signal to producers to increase production well beyond the amount of consumer demand. The result of this increase in support levels was predictable. Dairy farmers increased production and the Federal Government was forced to purchase dairy products at unprecedented levels. Today, we have over two billion pounds of dairy products in surplus storage, and it has been costing the taxpayer in excess of $2 billion for the last three fiscal years.

With this in mind, we must address the problem and come up with the best solution. It is my view that the best solution to the many problems in the dairy industry today, is a direct price support cut. A price support cut is simple to administer, it is proven and is more equitable. The price support cut keeps dairy production as close as possible to the free market, while lowering the price to the consumer.

However, two other provisions in the proposal: the Paid Diversion Plan and the National Promotion Plan could jeopardize our efforts to return to a market-oriented program. The Paid Diversion Program would be complicated to implement and calls for more government involvement in the marketplace. This program could hold production steady by region, holding back true market forces. despite the escalation of farm program costs, it is already estimated that the Paid Diversion Program will cost the taxpayers over $770 million in 1984. It would be difficult to make sure producers were cutting back production according to the law and there would not be a drop in the price of dairy products to the consumer.

The National Promotion Program, a national program to finance dairy product promotion, through a mandatory, nonrefundable 15 cent per cwt., does not allow for a referendum from the producers or the ability to obtain a refund, if desired. California and several other states already have substantial dairy promotion programs which are implemented at the state and local level. A mandatory national promotion program may not be an effective tool to address the real problems of overproduction and escalating government costs.

In short, I believe that a direct price support cut is the best way to restore free market incentives to the dairy industry.

PETE WILSON.

## ADDITIONAL VIEWS OF SENATOR ORRIN HATCH

The Helms-Huddleston tobacco bill is one step toward deregulation. For this reason, I voted to pass the bill out of the Agriculture Committee. However, I would like to reiterate that I am strongly opposed to government subsidization of tobacco and that my vote for this legislation was made in the affirmative only because it is one small step toward total deregulation. I, therefore, do not necessarily endorse all the provisions of the bill and reserve the right to support total deregulation of the tobacco industry, when and if the opportunity to do so arises.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12, of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown is roman):

### AGRICULTURAL ACT OF 1949

* * * * * * *

SEC. 201. The Secretary is authorized and directed to make available (without regard to the provisions of title III) price support to producers for tung nuts, soybeans, honey, milk, sugar beets, and sugar cane as follows:

* * * * * * *

[(d) Notwithstanding any other provision of law—

[(1)(A) Effective for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight of milk containing 3.67 per centum milkfat.

[(B) Effective for the fiscal year beginning October 1, 1984, the price of milk shall be supported at not less than such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1983.

[(C) The price of milk shall be supported through the purchase of milk and the products of milk.

[(2) Effective for the period beginning October 1, 1982, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Authority for requiring such deducations shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 5 billion

pounds milk equivalent. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds, the authority for requiring such deduction shall not apply for the balance of the year.

[(3)(A) Effective for the period beginning April 1, 1983, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight, in addition to the deduction referred to in paragraph (2), from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Corporation. The deduction authorized by this subparagraph shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions would be refunded in the manner provided in this paragraph to producers who reduce their commerical marketings from such marketings during the base period. For the purpose of this paragraph, the based period shall be the fiscal year beginning October 1, 1981 or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make such adjustments in individual bases under this subparagraph as the Secretary determines necessary to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

[(B) Refunds under this paragraph shall be based on reductions in commerical marketings as specified by the Secretary, but the Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period. The Secretary may provide for refunds to be made of amounts collected from producers on a pro rata basis taking into consideration the reduction in commercial marketings by the producer from the commerical marketings during the base period.

[(C) The funds remitted to the Corporation as a result of the deductions provided for under this paragraph that are not used in making refunds to producers shall be used to offset the cost of the milk price support program. Authority for making deductions under this paragraph shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 7.5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should establish that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for requiring such deductions shall not apply for the balance of the year.

[(D) The Secretary may provide for refunds to producers on a periodic basis during the year. If, based on total marketings for the year, the Secretary should determine that an overpayment has been made to the producer for the year, the producer shall repay the amount of the overpayment.

[(E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

[(4) The funds represented by the deductions referred to in paragraphs (2) and (3) shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

[(5) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, thereto to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

[(6)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and re-

strain any person from violating any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

[(B) Any person who willfully violates any provision of this subsection or any regulation issued under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

[(C) The remedies provided in subparagraphs (A) and (B) shall be in addition to, and not exclusive of, remedies otherwise provided at law or in equity.

[(7) In carrying out this subsection, the Secretary may, on a reimbursable or nonreimbursable basis, as the Secretary deems appropriate, use—

[(A) administrators of Federal milk marketing orders;

[(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act; or

[(C) administrators of State milk marketing programs.]

*(d) Notwithstanding any other provision of law—*

*(1)(A) Effective for the period beginning with the date of enactment of the Dairy Production Stabilization Act of 1983 and ending September 30, 1983, the price of milk shall be supported at a rate equivalent to $13.10 per hundredweight for milk containing 3.67 per centum milkfat.—*

*(B) Effective for the period beginning October 1, 1983, and ending September 30, 1985, the price of milk shall be supported at a rate equivalent to $12.60 per hundredweight for milk containing 3.67 per centum milkfat, except that—*

*(i) on January 1, 1985, if the Secretary estimates that for the 12-month period beginning on such date net price support purchases of milk or the products of milk would be in excess of six billion pounds milk equivalent, the Secretary shall reduce the price support rate in effect on such date in the amount of 50 cents per hundredweight; and*

*(ii) on July 1, 1985—*

*(I) if the Secretary estimates that for the 12-month period beginning on such date net price support purchases of milk or the products of milk would be in excess of five billion pounds milk equivalent, the Secretary shall reduce the price support rate in effect on such date in the amount of 50 cents per hundredweight; or*

*(II) if the Secretary estimates that for the 12-month period beginning on such date net price support purchases of milk or the products of milk would be five billion pounds milk equivalent or less and if the Secretary determines it necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, the Secretary shall increase the price support rate in effect on such date in an amount not less than 50 cents per hundredweight.*

*(C) The price of milk shall be supported through the purchase of milk and the products of milk.*

*(2)(A) Effective for the period beginning with the date of enactment of the Dairy Production Stabilization Act of 1983 and ending December 31, 1984, to encourage the adjustment of milk production to levels consistent with the national demand for milk and the products of milk, the Secretary shall provide for a reduction of 50 cents per hundredweight to be made in the price received on all milk marketed in the United States by producers for commercial use.*

*(B) The funds represented by the reduction in the price required to be applied to the marketings of milk by a producer under subparagraph (A) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to the Commodity Credit Corporation by the producer.*

*(C) The Commodity Credit Corporation shall credit the funds received by it under this paragraph to the Dairy Stabilization Settlement Fund. Such funds shall be used to make payments to dairy farmers reducing marketings of milk under paragraph (3). To the extent that funds deposited in the Dairy Stabilization Settlement Fund exceed those needed for such payments, such excess shall be used to reduce the cost of the price support program for milk. To the extent that funds available through the Dairy Stabilization Settlement Fund are inadequate to make the payments to producers who reduce marketings under paragraph (3), such payments shall be made using funds otherwise available to the Commodity Credit Corporation. The funds remitted to the Commodity Credit Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.*

*(3)(A) The Secretary shall provide for a milk diversion program under which the Secretary shall offer to enter into a contract with any producer of milk in the United States for the purpose of reducing the quantity of milk marketed by the producer for commercial use during the period beginning with a date determined by the Secretary (not earlier than the date of enactment of the Dairy Production Stabilization Act of 1983 nor later than October 1, 1983) and ending December 31, 1984.*

*(B) Each such contract shall require that—*

*(i) the producer shall reduce the quantity of milk marketed for commercial use in an amount equal to a percentage specified by the producer, but not less than 5 per centum and not more than 30 per centum, of the quantity of milk marketed by such producer for commercial use during the marketing history period described in subparagraph (F);*

*(ii) any production capacity of a facility that becomes available for use because a producer reduces milk production in order to comply with the contract shall not be used by the producer, or made available by the producer for use by any other person, for the production of milk;*

*(iii) any dairy cattle that would or could have been used by the producer for the production of milk if the producer had not entered into and complied with such contract shall not have been sold, leased, or otherwise transferred to another producer for the production of milk after May 23, 1983, unless such transfer is to another producer with respect to whom there is in effect a contract entered into under this subsection or unless the Secretary determines that the transfer will not adversely affect the purpose of the diversion program;*

*(iv) the producer shall repay to the Secretary the entire payment received under this subsection, including simple interest payable at the rate of 12 per centum per annum commencing on the date payment is first received under this paragraph, if the producer fails to comply with such contract.*

*(C) Except as provided in subparagraph (D), the Secretary shall pay to a producer who complies with a contract, entered into under this paragraph, an amount equal to the product of $10 per hundredweight and the amount, measured in hundredweights, by which the quantity of milk marketed by such producer for commercial use during the period specified in such contract is less than the quantity of milk marketed by such producer for commercial use during the marketing history period.*

*(D) No payment may be made under subparagraph (C) to a producer with respect to—*

*(i) any reduction in the quantity of milk marketed by the producer for commercial use that exceeds the sum of—*

*(I) the reduction in the quantity of milk marketed for commercial use required under the provisions of the contract the producer has entered into under this paragraph, after any adjustment by the Secretary under subparagraph (E); and*

*(II) 3 per centum of the quantity of milk marketed by the producer for commercial use during such producer's marketing history period;*

*(ii) any reduction in the quantity of milk marketed by the producer for commercial use if such reduction is less than the larger of 5 per centum of the aggregate quantity of milk marketed by the producer for commercial use during the marketing history period or the difference between—*

*(I) the reduction in the quantity of milk marketed for commercial use required under the provisions of the contract the producer has entered into under this paragraph, after any adjustment by the Secretary under subparagraph (E); and*

*(II) 3 per centum of the quantity of milk marketed by the producer for commercial use during such producer's marketing history period; and*

*(iii) any reduction in the quantity of milk marketed for commercial use by a producer who violates any requirement specified in this paragraph.*

*(E) The Secretary may modify contracts entered into under this paragraph if the Secretary determines that an excessive reduction in the level of milk production in the United States would result from contracts entered into under this paragraph and the Secretary announces such determination not later than October 1, 1983. The Secretary may reduce the required reduction on a uniform basis among all contracts, or may provide for adjustments on such other basis as the Secretary determines equitable in order to ensure sufficient fluid milk to meet the needs of an area or otherwise not to affect adversely the economy of an area.*

*(F) Any producer of milk in the United States seeking to enter into a contract for diversion payments under this paragraph shall provide the Secretary with evidence of such producer's marketing history. The marketing history shall be the marketings of milk by such producer for commercial use during the period beginning in 1981 and ending in 1982 that corresponds to the period of the diversion contract, or at the option of the producer the average marketings of milk by the producer for commercial use during the period beginning in 1980 and ending in 1981 and during the period beginning in 1981 and ending in 1982 that correspond to the period of the diversion contract. The producer's marketing history may be adjusted as the Secretary determines necessary to correct for abnormally low production resulting from a natural or man-made disaster beyond the control of the producer or such other factors as the Secretary determines necessary to provide a fair and equitable marketing history. The Secretary shall provide for the issuance of a marketing history card after it has been determined that the evidence presented by the producer is a true and accurate representation of the marketings of the producer during the marketing history period.*

*(G) No marketing history shall be assigned to any producer who commenced marketing of milk after December 31, 1982, except as provided in subparagraph (H).*

*(H) A producer's marketing history established under this paragraph shall not be transferable to any other person, unless the entire milk production facility used by the producer to produce milk for commercial use during the marketing history period and the producer's entire dairy herd were transferred by reason of the death of the producer, by reason of a gift from the producer, or to a member or members of the family of the producer. The term "member or members of the family of the pro-*

*ducer" means (i) an ancestor or ancestors of the producer, (ii) the spouse of the producer, (iii) a lineal descendant or descendants of the producer, of the producer's spouse, or of a parent of the producer, or (iv) the spouse of any such lineal descendant.*

*(I) Eligibility for diversion payments shall be determined on the basis of the marketing history card provided for in subparagraph (F).*

*(J)(i) Producers eligible for diversion payments shall apply for such payments at the end of each quarter. Payment may be made to any producer who can establish that marketings of milk by such producer for commercial use have been reduced from the level of marketings during the corresponding period of the marketing history period in an amount required by the contract. Prior to approving such payment, the Secretary shall require evidence that such reduction in marketings has taken place. As part of such evidence, the producer shall certify, in a form specified by the Secretary, that such reduction is a net decrease in marketings of milk for commercial use and has not been offset by expansion of production in other production facilities in which the producer has an interest, or by transfer of partial interest in the production facility, or by employment of such other scheme or device to qualify for payment for which such producer would otherwise not be eligible.*

*(ii) Payments made under this paragraph during the year shall be considered preliminary settlements for reductions in marketings. A final settlement shall be made following the end of the contract period and shall be based on the volume of marketings for the entire contract period. If, based on total marketings for the contract period, it is determined that preliminary settlements have resulted in overpayments to the producer, the Secretary shall recover such overpayments from such producer, or shall require such payments to be recovered by the person who made such payments to the producer, as provided in subparagraph (K).*

*(K) Application for payment shall be made by producers through the county committees established under section 8 of the Soil Conservation and Domestic Allotment Act, except that upon the request of a person making payment to producers for milk, the Secretary may allow such person to make diversion payments due producers on the basis of the marketing history card described in subparagraph (F). In such instance, payments will be made using funds collected by such person under paragraph (2). To the extent that such funds are inadequate to make the diversion payments due producers under this subparagraph, the Secretary shall advance funds for such payments from funds available in the Dairy Stabilization Settlement Fund or from funds otherwise available to the Commodity Credit Corporation. Any person making payments to producers for milk and diversion payments to producers for reductions in marketings of milk shall be fully accountable to the Commodity Credit Corporation for the application of such funds in the form and manner prescribed by the Secretary.*

*(L) A producer may assign a contract entered into under this paragraph only if—*

*(i) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;*

*(ii) the assignee is a person to whom the producer's marketing history may be transferred under subparagraph (H);*

*(iii) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and*

*(iv) a copy of such writing is submitted to the Secretary before the transfer occurs.*

*(M) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned, in accordance with subparagraph (L), by the estate of such producer.*

*(N) If the provisions for reductions in the price received for milk marketed for commercial use as provided for in paragraph (2) are held to be invalid by any court, or the Secretary is restrained or enjoined by any court from implementing such provisions, the Secretary shall immediately suspend making any diversion payments under this paragraph for the period beginning with the date of such court action and shall resume making such payments only if such court action is overruled, stayed, or terminated.*

*(O) If the Secretary determines that there has been a marked deviation in the composition of milk marketed for commercial use by a producer from that of such producer's marketings during the marketing history period, and adjustment as determined appropriate by the Secretary shall be made in the producer's diversion payments to reflect the composition of milk marketed during the marketing history period.*

*(4) Each producer who markets milk and each person required to make payment to the Commodity Credit Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purposes of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production*

*of records. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.*

*(5)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. The Secretary is not required, however, to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.*

*(B) Each person (i) as to whom there is a failure to make a reduction in the price of milk received by such person as required by paragraph (2), (ii) who fails to remit to the Commodity Credit Corporation the funds required to be collected and remitted by paragraph (2)(B), or (iii) who fails to make the reduction in marketings required by a contract under paragraph (3) shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk for the fiscal year in which the failure occurs on the quantity of milk as to which the failure applies. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned. Each person who knowingly violates any provision of this subsection, or any regulation issued under this subsection, shall be liable for a civil penalty of not more than $1,000 for each such violation. Any penalty provided for under this subparagraph shall be assessed by the Secretary after notice and opportunity for a hearing.*

*(C) Any person against whom a penalty is assessed under subparagraph (B) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than thirty days after such penalty is imposed. The Secretary shall promptly file in such court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.*

*(D) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under subparagraph (B).*

*(E) The remedies provided in this paragraph shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.*

*(F) In carrying out this subsection, the Secretary may, on a reimbursable basis, as the Secretary deems appropriate, use—*

*(i) administrators of Federal milk marketing orders;*

*(ii) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act; or*

*(iii) administrators of State milk marketing programs.*

*(6) The term "United States" as used in paragraph (2) though (5) of this subsection means the forty-eight contiguous States in the continental United States.*

AGRICULTURAL ACT OF 1949

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TITLE I—BASIC AGRICULTURAL COMMODITIES

SEC. 101. The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections, (a), (b), and (c) as follows:

* * * * * * *

PRICE SUPPORT FOR 1960 AND SUBSEQUENT YEARS (TOBACCO)

SEC. 106. Notwithstanding any of the provisions of section 101 of this Act: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 301(a)(1)(C) of the Agricultural Adjustment Act of 1938, as amended, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959. (c) If acreage poundage or poundage farm marketing quotas are in effect under section 317 or 319 of the Agricultural Adjustment Act of 1938, as amended, (1) price support shall not be made available on tobacco marketed in excess of 110 per centum of the marketing quota (after adjustments) for the

farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop.

(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided,* That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher then the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

*(e) Notwithstanding the foregoing provisions of this section—*

*(1) For the 1983 crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level in cents per pound shall be the level in cents per pound at which the 1982 crop was supported.*

*(2) For the 1984 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported.*

*(3) For the 1985 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported, plus or minus, respectively, the amount by which (A) the support level for the 1985 crop, as determined under subsection (b), is greater or less than (B) the support level for the 1984 crop, as determined under subsection (b), as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (A) is greater than the support level under clause (B), except that the support level for the 1985 crop shall be the level in cents per pound at which the 1982 crop was supported if the support level as determined under subsection (b) for the 1985 crop would not be more than 5 per centum greater than the support level as determined under subsection (b) for the 1984 crop.*

*(4) For the 1984 and 1985 crops of any kind of tobacco (other than Flue-cured tobacco) for which marketing quotas are in effect or are not disapproved by producers, the Secretary shall establish the support level at such level as will not narrow the*

*normal price support differential between Flue-cured tobacco and such other kind of tobacco. Before establishing the support level under this paragraph for any kind of such tobacco the Secretary shall publish in the Federal Register a notice of the level the Secretary proposes to establish and give an opportunity for the public to comment on the proposal. In determining the level to be established under this paragraph for a particular kind of tobacco, the Secretary shall take into consideration the cost of producing such kind of tobacco, the supply and demand conditions for such kind of tobacco, the comments received in response to the public notice of the proposal, and such other relevant factors as the Secretary determines appropriate.*

*(5) For the 1986 and each subsequent crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which (A) the support level for the crop for which the determination is being made, as determined under subsection (b), is greater or less than (B) the support level for the immediately preceding crop, as determined under subsection (b), as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (A) is greater than the support level under clause (B).*

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 106A. (a) As used in the section—

(1) the term "association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

* * * * * * *

(d) The Secretary shall—

(1) require—

(A) that—

(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

(ii) as a condition of eligibility for price support for any marketing year of any three-year period for which marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period (or, in the case of a producer of Burley quota tobacco on a new farm or a producer of Burley quota tobacco suc-

ceeding another producer on a farm, before the beginning of the marketing year in which such new producer or such successor producer will first market Burley quota tobacco from the farm involved), to contribute in each of the marketing years in such three-year period (or, in the case of such new producer or such successor producer, any remaining marketing year in such three-year period), with respect to all Burley quota tobacco marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

(B) that, upon making a contribution under subparagraph (A)—

(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

(2) effective for the 1983 [and subsequent crops] *crop only* require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue

such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for that purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the corporation under paragraph (5): *Provided, That notwithstanding any other provision of law, use by the association of moneys in the Fund, including interest and other earnings, for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers is authorized, and use of such moneys for any other purposes that will be mutually beneficial to producers who contribute to the Fund and to the Corporation, shall, if approved by the Secretary, be considered an appropriate use of the Fund;*

(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this

section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorizd by this Act or the Commodity Credit Corporation Charter Act.

(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.

MARKETING ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT

SEC. 106B. (a) As used in this section—

(1) the term "association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco[, except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco];

(2) the term "Account" means an account established by and in the Corporation for an association, which account shall be known as the "No Net Cost Tobacco Account";

(3) the term "to market" means to dispose of tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(4) the term "net gains" means the amount by which total proceeds obtained from the sale by an association of a crop of a kind of tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association of such crop, plus interest and charges;

(5) the term "tobacco" means any kind of tobacco [except Flue-cured tobacco], as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

(6) the term "area", when used in connection with an association, means the general geographical area in which farms of the producer-members of such association are located, as determined by the Secretary; and

(7) the term "Corporation" shall have the meaning given to it in section 106A(a)(2).

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AGRICULTURAL ADJUSTMENT ACT OF 1938

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TITLE III—LOAN, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

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SUBTITLE B—MARKETING QUOTAS

Part I—Marketing Quotas—Tobacco

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LEASE OR SALE OF ACREAGE ALLOTMENTS

SEC. 316. [(a)(1) Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support program, shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this Act, to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment or quota of the same kind.]

*(a)(1) Notwithstanding any other provision of law—*

*(A)(i) The Secretary, if the Secretary determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this Act to lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment of the same kind.*

*(ii) The Secretary shall, only with respect to the 1984 through 1989 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act to lease and transfer all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota only if (except as otherwise provided in paragraph (2)(A) for the 1984 through 1986 crops of such tobacco) the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statement certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or*

*any other similar arrangement which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease and that the lease and transfer is otherwise in compliance with the provisions of this section: Provided, That, with respect to the 1987 through 1989 crops of Flue-cured tobacco, such lease and transfer shall not be permitted if the unadjusted Flue-cured tobacco farm marketing quota established under the Act for the lessor's farm exceeds 3,000 pounds. With respect to the 1990 and subsequent crops of Flue-cured tobacco, the Secretary shall not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas.*

*(B) If, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A), (i) in the case of a false statement knowingly made by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered null and void as of the date approved by the county committee or (ii) in the case of a false statement knowingly made by the lessor, the Flue-cured tobacco allotment and quota next established for the farm of the lessor shall be reduced by the percentage which the leased allotment or quota was of the total Flue-cured allotment or quota for the farm. Notice of any determination made by the county committee under the preceding provision shall be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with such determination, the lessee or lessor may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of this Act.*[1]

(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease. **[**, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and trans-

[1] Effective for the 1984 and subsequent crop.

fer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.] [2]

[(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease.] [3]

(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

(i) between the lessor and lessee; or

(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease.

(b) Any lease may be made for such terms of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) The lease and transfer or sale and transfer of any allotment shall not be effective until a copy of the lease or sale agreement, as the case may be, if filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with provisions of this section. [In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing, such county committee determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee recieve such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing, such county committee determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any de-

[2] Effective for the 1987 and subsequent crops.
[3] Effective for the 1990 and subsequent crops.

termination made by a county committee under the preceding provisions shall be mailed, as soon as practicable, to the lessee or the lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessee or such lessor may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.] [4] If the normal yield established by the county committee for the farm to which the allotment is transferred by lease or sale does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

(d) The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e)(1) The total acreage allotted to any farm after the transfer by lease or sale of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm [or, in the case of Flue-cured tobacco,] *or, in the case of the sale of Flue-cured tobacco acreage allotment or poundage quota,* [5] of the acreage of tillable cropland (as defined in paragraph (2)) in the farm: *Provided,* that in the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

(2) For purposes of this section, the term "tillable cropland" means cleared land that can be planted to crops without unusual cultivation or other preparation.

(f) The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all of any part of such allotment or quota to any person who is or intends to become an active

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[4] Effective for 1984 and subsequent crops.
[5] Effective for the 1990 and subsequent crops.

Flue-cured tobacco producer. For purposes of this section, the term "active Flue-cured tobacco producer" means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.

(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

[Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.] [6]

(h)(1) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quotas in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quotas before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(2) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly

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[6] Effective for the 1990 and subsequent crops.

failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

(b) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 316A. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section—

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

[(2) is not significantly involved in the management or use of land for agricultural purposes;]

*(2) does not use the land on the farm for agricultural purposes;*

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, [1983] *1984*, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution or religious institution) who, on or after December 1, 1983, owns a farm for which the total acreage allotted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm's tillable cropland, as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c). In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition.

(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.

MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 316B. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section—

(1) owns a farm for which a Burley tobacco marketing quota is established under this Act; and

[(2) is not significantly involved in the management or use of land for agricultural purposes;]

*(2) does not use the land on the farm for agricultural purposes;*

shall sell, not later than December 1, [1983] *1984,* or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active Burley tobacco producer or any person who intends to become an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b).

(b)(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers or those intending to become active Burley tobacco producers as defined by the Secretary, for use in such county.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

(c)(1) Any person who—

"(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

"(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

ACREAGE—POUNDAGE QUOTAS

SEC. 317. (a) For purposes of this section—

* * * * * * *

(d) If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) the Secretary shall, not later than December [1] *15* of any marketing year with respect to Flue-cured tobacco, and [February 1] *March 1* with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 312(c) of this Act. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c). The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas

on an acreage-poundage basis are in effect on or before the December [1] *15* with respect to Flue-cured tobacco and the [February 1] *March 1* with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations.

(e) No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve for the national acreage allotment in an amount equivalent to not more than [1 per centum] *3 per centum* of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years. The part of the reserve held for apportionment to new farms shall be alloted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms[, and shall not exceed the community average yield] *(except that not less than two-thirds of such reserve shall be for new farms).*

* * * * * * *

*(k)(1) Notwithstanding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under this Act shall, subject to paragraph (2) of this subsection, forfeit such allotment or quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the determination is being made in which Flue-cured tobacco has not been planted or considered planted on such farm during at least two years out of such three-year period.*

*(2) The allotment or quota specified in paragraph (1) of this subsection shall be forfeited, if, after notice and opportunity for a hearing, the appropriate county, committee determines that any person knowingly failed to comply with the provisions of paragraph (1). Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in section 316(g)(1) of this Act) in the county involved.*

*(3) Notice of any determination made by the county committee under paragraph (2) of this subsection shall be mailed, as soon as practicable, to the person involved. If such person is dissatisfied*

*with such determination, such person may request, within fifteen days after notice of such determination is mailed, a review of such determination by the local review committee under section 363 of this Act.*[7]

*(l) The Secretary shall determine the acreage planted to Flue-cure tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under this section.*

SALE OR LEASE OR ACREAGE ALLOTMENTS

SEC. 318. (a) Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark aircured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this Act to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b) Transfers under this section shall be subject to the following conditions: (1) *except as provided in section 379(b) of this Act,* no allotment or quota shall be transferred to a farm in another county: *Provided,* That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; [23] (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgate or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

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FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO

SEC. 319. (a) Notwithstanding any other provision of law, the Secretary shall, within thirty days following the enactment of this section, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

* * * * * * *

(c) The national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of

[7] Effective for the 1984 and subsequent crops.

tobacco produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during each marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. With respect to burley tobacco, any such downward adjustment shall not exceed [5 per centum] *15 per centum* of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect for a kind of tobacco under this section, the Secretary in his discretion may establish a reserve with respect to such kind of tobacco (hereinafter referred to as the "national reserve") from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

* * * * * * *

(e) A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the Act) established for such farm for the marketing year beginning October 1, 1970. A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the marketing year beginning October 1, 1982. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided,* That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by mutliplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year: *Provided,* That such national factor shall not be less than [95 per centum] *85 percentum: Provided further,* That for the marketing years beginning October 1, 1972 and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the

current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided,* That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided,* That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past experience of the farm operator with respect to the kind of tobacco involved: the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco: *Provided,* That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further,* That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided,* That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments), for such kind of tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 318 of the Act: Provided, That such leases and transfers shall be on a pound for pound basis: Provided further, That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: [Provided further,

That not more than thirty thousand pounds may be leased and transferred to any farm under this section with respect to burley tobacco:] *Provided further, That not more than fifteen thousand pounds of Burley tobacco quota may be leased and transferred to any farm under this section: Provided further, That a lease and transfer of Burley tobacco quota shall not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year:* [8] *And provided further,* That the Marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

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RECONSTITUTION OF FARMS

SEC. 379 (*a*) In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco.

*(b) In any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary shall permit such tracts to be combined as one farm if: (1) a Burley tobacco poundage quota is established for one or more such tracts and (2) the county committee determines that such tracts will be operated as a single farming unit.*

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[8] Effective for the 1984 and subsequent crops.